

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

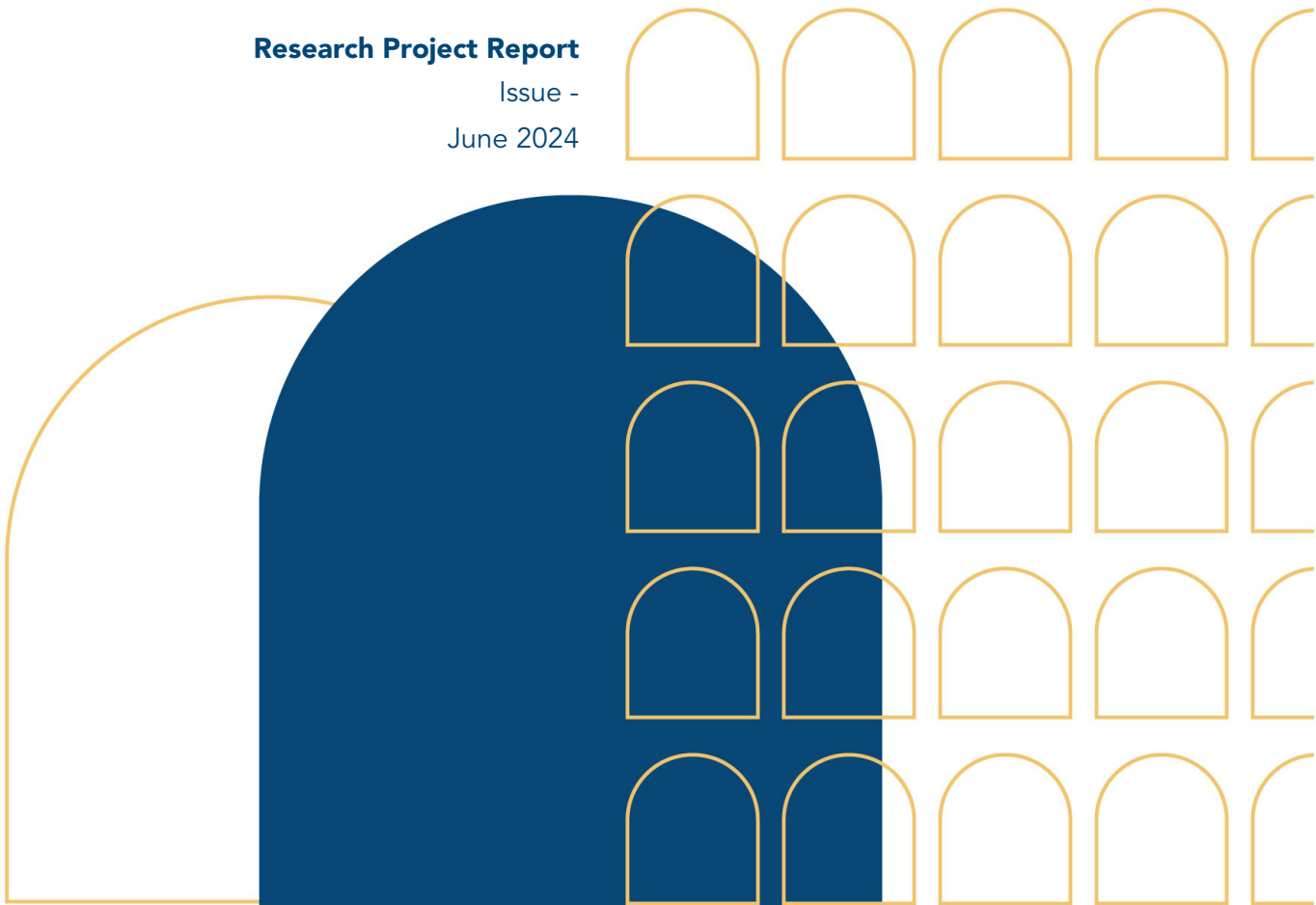
## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN MEMBER STATES AND CANDIDATE COUNTRIES IN 2023

Country report: Serbia

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**Research Project Report**

Issue -  
June 2024



# TABLE OF CONTENTS

<b>1. About the project</b>	<b>4</b>
1.1. Overview of the Project	4
1.2. Methodological notes	4
<b>2. Introduction</b>	<b>6</b>
<b>3. Results of the data collection: Assessment of the risks to media pluralism</b>	<b>9</b>
3.1. Fundamental Protection (60% - medium risk)	14
3.2. Market Plurality (71% - high risk)	19
3.3. Political Independence (74% - high risk)	25
3.4. Social Inclusiveness (69% - high risk)	32
<b>4. Conclusions</b>	<b>38</b>
<b>5. Notes</b>	<b>44</b>
<b>6. References</b>	<b>53</b>
<b>Annexe I. Country Team</b>	
<b>Annexe II. Group of Experts</b>	

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Published by

European University Institute (EUI)

Via dei Roccettini 9, I-50014

San Domenico di Fiesole (FI)

Italy

ISBN:978-92-9466-589-8

doi:10.2870/961982



**Co-funded by  
the European Union**

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or EACEA. Neither the European Union nor the granting authority can be held responsible for them.

# 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 2023. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, The Republic of North Macedonia, Serbia and Turkey. This year a part of the MPM has also been piloted in Bosnia and Herzegovina and Moldova. 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. The research is based on a standardised questionnaire that was developed by the CMPF.*

*In Serbia the CMPF partnered with Dr. Irina Milutinovic (Institute of European Studies), 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).*

### • 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.*

<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

- **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. 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/>.

**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, MPM2024 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 MPM2024, which is available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

## 2. Introduction

- **Country overview.** The Republic of Serbia is a European, Western Balkans country, with a population of 6,647,003 according to the last population census, held in October 2022 (RZS, 2022). Serbia was granted candidate status for membership in the European Union in 2012.
- **Languages.** The official language is Serbian. In addition to the Serbian language, 12 languages of national minorities are in official use in 42 units of local self-government in Serbia (Albanian, Bosnian, Bulgarian, Bunjevac, Croatian, Czech, Hungarian, Macedonian, Montenegrin, Romanian, Ruthenian, and Slovak), as well as the Vlach and Romani languages in some areas. The right to official use of mother tongues and scripts of national minorities is recognized by the Serbian Constitution and specialized laws in accordance with the Framework Convention of the Council of Europe on the protection of national minorities.
- **Minorities.** By nationality, the majority are the Serbs - 5,360,239 (80.64% population). After Serbs, the most numerous are the Hungarians - 184,442 (2.77%), followed by the Bosniaks - 153,801 (2.31%). Hungarians are mostly located in the Autonomous Province of Vojvodina, and the Bosniaks mostly live in the counties of south-western Serbia. The following minorities represent less than 2% each: Roma - 131,936 (1.98%), Albanians - 61,687 (0.93%), Slovaks - 41,730 (0.63%), Croats - 39,107 (0.59%), Yugoslavs - 27,143 (0.41%), Romanians - 23,044 (0.35%), Vlachs - 21,013 (0.32%), Montenegrins - 20,238 (0.30%), Macedonians - 14,767 (0.22%), Muslims - 13,011 (0.20%), Bulgarians - 12,918 (0.19%), Ruthenians - 11,483 (0.17%), Bunjevci - 11,104 (0.17%), Russians - 10,486 (0.16%), Gorani - 7,700 (0.12%), Ukrainians - 3,969 (0.06%), Slovenians - 2,829 (0.04%) and Germans - 2,573 (0.04%). There are 24 national minorities that have legal representation (through the Minority Councils), and one minority that is represented in the census, but is not recognized by legal acts (Yugoslavs).
- **Economic situation.** The total economic activity of the Republic of Serbia in 2023, measured by the real Gross domestic product (GDP), is estimated to have a growth of 2.5% compared to 2022 (RZS, 2023). Industrial production for the period January–December 2023 compared to the same period previous year was by 2.5% higher. Also, employment in 2023 recorded a growth of 2.2% compared to the previous year. Average net salaries were RSD 89,956 (about EUR 769) in November 2023. Increase of salaries in 2023, relative to the same period last year, was 15.0% in nominal terms, and 2.6% in real terms. However, consumer prices in 2023 increased by 12.1%, on average, in relation to 2022. Annual inflation rate was 7.6%. Poverty in 2023 was estimated at 8%, down from 8.5% in 2022. “The pace of poverty reduction has slowed in the context of weakening growth and the erosion of purchasing power of the poor, for whom food and energy costs account for a high proportion of consumption” (World Bank, October 2023). Public debt reached 36.15 billion euros at the end of 2023 (which means that Serbia has doubled it since 2012), amounting to 52.3% of GDP (Ministry of Finance, December 2023). Some experts consider the official statements on the decrease of public debt share in GDP unreliable and that additional borrowing should worry the citizens of Serbia (Vreme, 2023; Nova ekonomija, 2024).
- **Political situation.** The political system of Serbia functions within the institutional environment of parliamentary republic with multiparty competitive elections. However, in recent years, the Serbian Progressive Party (SNS), a populist catch-all party that has been dominant in ruling coalitions in Serbia since 2012, has steadily eroded characteristics of representative institutions, democracy legislatures,

independent regulatory agencies, etc. The year of 2023 was predominantly marked by the extraordinary parliamentary, the Vojvodina provincial, and local elections that were held in 65 cities and municipalities, including the capital, Belgrade city elections. These by-elections were held on December 17, when the leading SNS with President of Serbia Aleksandar Vučić, who did not compete himself but has participated as the SNS-led coalition electoral list leader, won a majority of 44.27%. Several relevant reports found that the 2023 elections were not fair. Moreover, many indications and evidence of not only gross violations of democratic principles but also of criminal acts in the election process were observed: unscrupulous pressures on voters, manipulations of the voters registry, forgeries of support signatures for nominated lists, misuse of citizens' personal data, illegal and illegitimate electoral engineering through organized voter migrations, media inequality, misuse of public resources and office, and finally, falsification of the Belgrade city election results publication date in the Official Gazette that was committed to prevent the opposition from utilizing the legal deadline for submitting complaints to the Constitutional Court (CRTA, February 2024). The CRTA Election Observation Mission findings show serious irregularities at 13 percent of polling stations in the parliamentary elections, while in the Belgrade elections, the share of such polling stations amounts to as much as 21 percent. Its final report highlights that the irregularities are still ignored by responsible institutions, "this further reinforced the principles of impunity and legal uncertainty, for which prosecutorial bodies bear the greatest responsibility" (Ibidem). The preliminary and final ODIHR reports were mostly based on the same point of view (ODIHR, 2023; ODIHR, 2024). Also, the European Parliament Resolution on the situation in Serbia following the elections (2024/2521(RSP)) pointed out that, although smoothly conducted, the elections were marked by numerous procedural deficiencies, and called for an independent international investigation into the irregularities.

- **Media market.** The Serbian media market is highly concentrated and polarised. The top four owners across all media sectors (TV, radio, print, online) reach a market share of 79% (MOM, 2023). The polarisation is visible between pro-government and critical media, where critically minded media are often perceived as political opponents. Over the last few years, the media concentration has been increasing in favour of Telekom - the company with the state as the biggest shareholder. According to the official data for the third quarter of 2023, Telekom Srbija's market share was 53,2% compared to private-owned competitor SBB's 40,5% (RATEL, 2023: 14). The state ownership of the media has been restored in October 2023, by the new Law on Information and Media, that enabled the legal entities whose founder is state to establish and purchase media outlets, if engaged in electronic communications activities (Art. 39, Para 5, Point 2). The Government thus achieved its intention, to legalise the former violation of the law by Telekom Srbija, as well as of its own influence on media through Telekom. Namely, Telekom got 'recognized' its control over five private television stations, via other legal persons as their founder, which was not allowed under the (then valid) media laws (IREX, 2023, p. 13; Babic, 2024, p. 27). Since the state had pledged to withdraw from ownership in the media in its 2011 Media Strategy, this twist is perceived as particularly controversial, and raised suspicions that it will enable even stronger control of the state over informing citizens and the media market. Therefore, the dominance of Telekom Srbija over United Group has potentially strong political implications as the latter company is the owner of critical media: TV news channels N1 and Nova, their cable TV broadcaster – SBB, as well as daily newspaper Danas and newly established weekly Radar.
- **Media consumption.** Serbians use social networks (83%) and television (72%) as the most frequent news sources, while far behind in the third place are websites and apps of newspapers (57%). But, when it comes to the main news source, the situation changes: television with 34% of consumers takes supremacy over social media (25%), as well as over daily newspapers' websites and applications

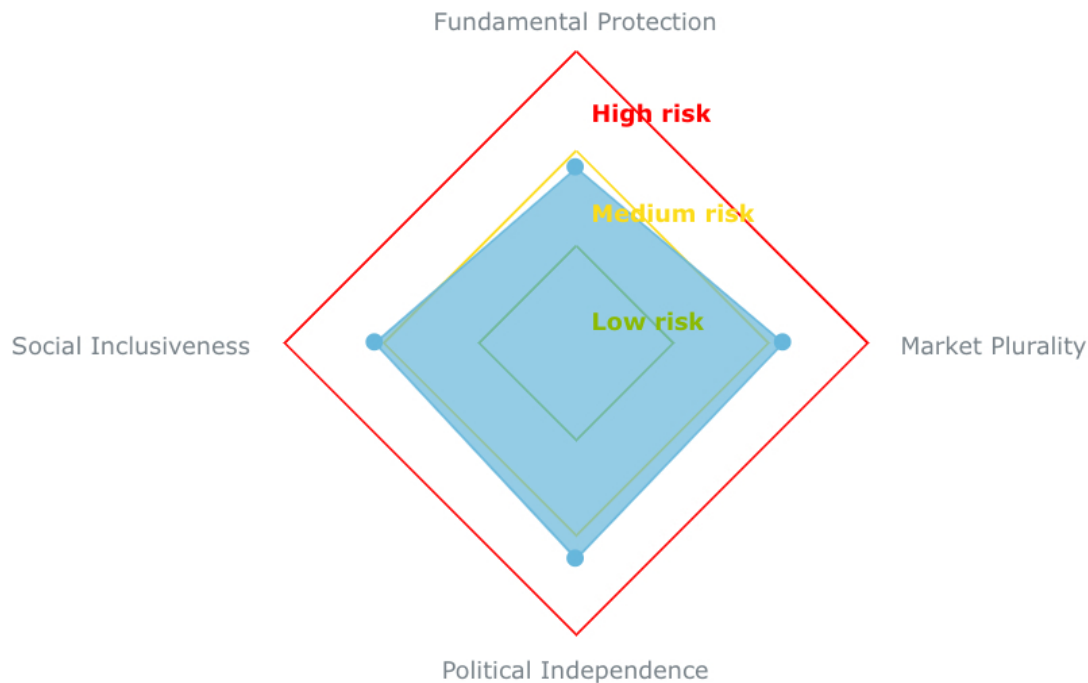
(22%) (Kleut et al., 2022, pp. 18-19). Yet, traditional media websites and apps are ranked high as the main news sources, gathering up 36% in total. So, the primary sources of information for citizens are still television stations but the online portals of traditional media outlets are their strong challengers. A prominent generation gap is recorded here: 52% of the older than 55 use TV as the most important source of information, while more than 40% of younger citizens (aged 18–34) rely on social media in this regard. Digital editions of daily newspapers and weeklies are used much more often than their print editions. A dramatic drop in circulation happened between 2016, when daily reach among the 12 plus population for the press was 56%, and 2022, when it was only 18%. Similar trends are affecting the radio industry; radio is preferred as the most relevant source of news for 4% consumers (via online platforms) and for 3% consumers that follow radio programmes offline. In general, it seems that the successful transition of popular legacy media brands to the online world has happened. Television still has a firm foothold among the following categories: men (39%), rural population (47%), and the ruling parties' supporters (58%), who more commonly choose TV channels as the main sources of news (Ibidem). Citizens generally exhibit low levels of trust in media outlets, but TV channels garner the most trust when compared to other media types, such as internet portals, radio, and newspapers. Therefore, television remains the most influential media when it comes to information, and Public Service Broadcaster (RTS) stands out as the most trustworthy media outlet (CRTA, December 2023).

- **Regulatory environment.** The National Assembly of the Republic of Serbia adopted two new media laws in October 2023 – the Law on Public Information and Media (LPIM) and the Law on Electronic Media (LEM). The primary reason for enacting the new laws was to realise the objectives defined in the 2020 Media Strategy and to further align with the legal framework of the European Union, particularly through compliance with the AVMS Directive. However, these new laws introduced only a part of measures that were foreseen by the Media Strategy. The new LPIM was amended by introducing some positive novelties regarding the Media Register content, as well as the special Records of the media content producers, and the Unique information system for implementing and monitoring co-financed media projects. Also, the entire process of project-based co-financing is regulated in more detail, and many proposals from journalists' and media associations have been adopted in this regard. When it comes to LEM, it brings several positive solutions regarding the Regulator (REM) itself, such as removing political bodies as authorised proposers of the REM Council members, making criteria for their appointment stricter, including harsher measures that the Council can impose on the media service providers, etc. However, some solutions remained inconclusive. Regarding the so-called reset of the REM Council (resignation of the members of the REM Council as a very important condition from the Media Strategy), a compromise solution was found for the new Council to be elected within a year, as the only acceptable solution for the Government. What remains beyond the reach of the Law is improving the transparency of the REM Council's work; defining in more detail the scope of REM's work as well as the method of selection for the position of the REM director; better regulation of political advertising and the election campaign in accordance with the recommendations of the ODIHR; better regulation of the procedure for issuing permits for provision of media services. Also, the judicial and civil control of REM's actions based on complaints from citizens and organization was not adopted. A big controversy concerns the criteria for media co-financing project evaluation and competence of the self-regulatory body, the Press Council, in this procedure. Some law provisions that are not in line with the Media Strategy and AVMS Directive could impact media pluralism and freedom in Serbia. In the current political environment, the restored state media ownership is not only opposed to the Media Strategy aims, but also jeopardises its intention to improve a functioning, sustainable and fair media market, protected from political influence. Therefore, some media stakeholders warned that the state must provide guarantees that media laws won't be abused (CMF & CRTA, 2023).



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

#### Serbia: Media Pluralism Risk Areas



JS chart by amCharts



Serbia scored a medium risk rating (60%) within the **Fundamental Protection area**. This is a considerably worse result than the risk score of the EU plus candidates' countries (34%) and shows deterioration compared to 2022 by eight percent points. The sub-indicators of Independence of the media authority, Digital safety and Broadband coverage achieved the highest risk of 100%, while the Working conditions of journalists also scored a high-risk of 83%. Other sub-indicators were exposed to medium-risk levels, which effected a medium risk-score to all the indicators and the area as well. Despite some positive legal changes carried out through the adoption of two new media laws – the Law on Public Information and Media (LPIM) and the Law on Electronic Media (LEM) in October 2023, in general, this regulatory intervention has been assessed rather poorly by relevant organisations. The primary reason for enacting amendments to the media laws was to realise the objectives outlined in the 2020 Media Strategy and to further align with the legal framework of the European Union, particularly through compliance with the AVMS Directive. However, it turned out that some new media provisions "do not comply with international and European standards on media freedom and freedom of expression and diverge radically from the objectives of the Media Strategy adopted by the Government of Serbia in 2020" (EFJ, 2023). Moreover, the amendments to the Law on Public Service Media are still delayed. The Regulatory Agency for Electronic Media (REM) fails to fulfil its functions independently and non-discriminatory, continually placing some subjects into more favourable positions than the others (Djuric, 2023; IREX, 2023; EC, 2023). It faces both domestic and international criticism, including from the MFRR, for its lack of independence and politically motivated decision-making processes. Despite the legal definition of the regulator as an independent body, the authorities do not perceive REM as an independent regulator but "as a part of its machine", since "it protects the narrow interests of private broadcasters and the ruling structures, rather than the interests of Serbian citizens" (IREX, 2023, p. 14). The 2023 intervention in the legislative framework foresees some positive changes

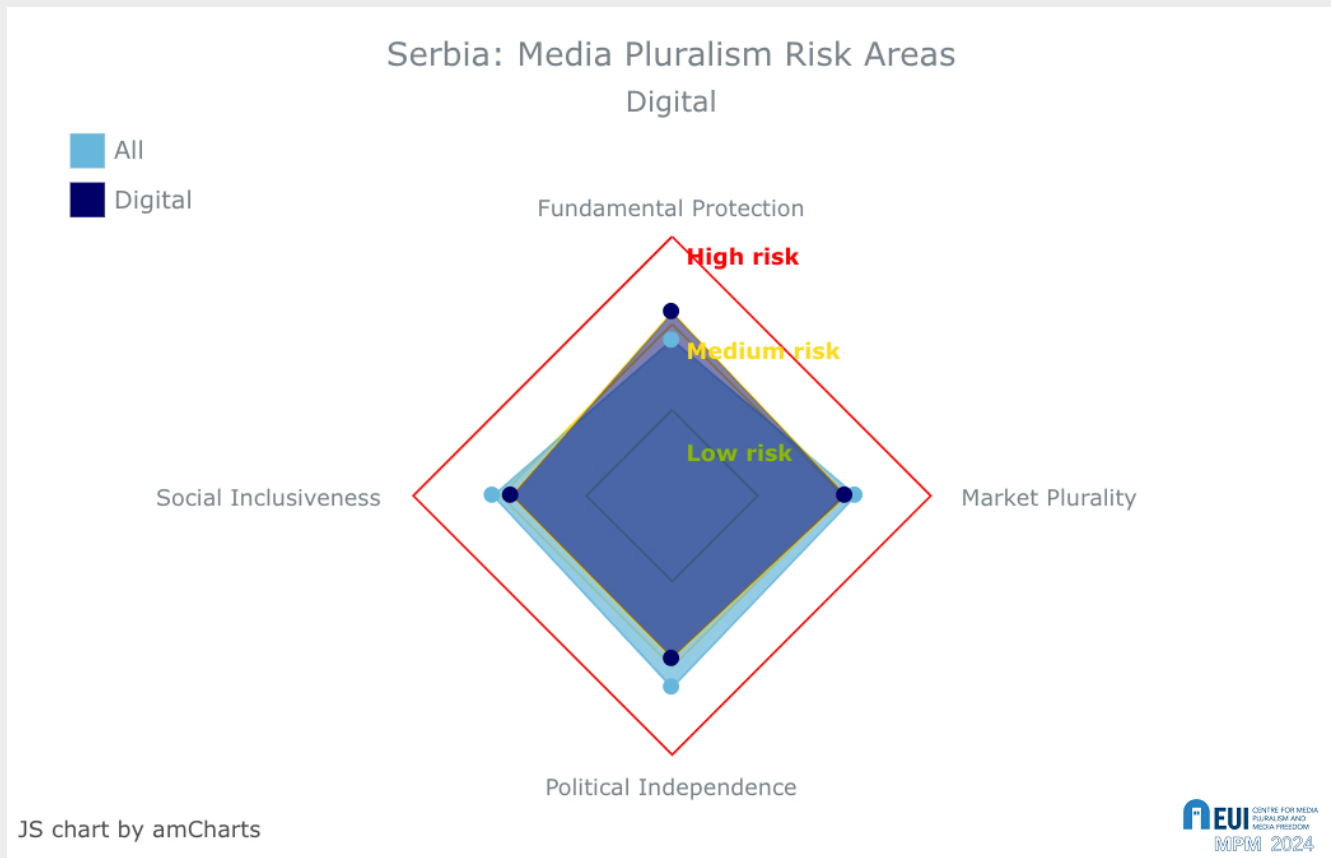
regarding the process of nominating members of the REM Council, as well as by introduction of a more detailed definition of the Regulator's work scope and the rules of incompatibility with membership in the Council. Yet, the new law missed the opportunity to improve the issue of the Regulator's tasks and responsibilities completely in line with the Media Strategy and to carry out its emancipation from the state administration. There were no journalists killed in 2023. Yet, attacks, threats, intimidation, hate speech, and various forms of pressure have not been diminished, on the contrary. Investigations in many cases were not efficient and took a long time, so many cases of attacks and threats remained unpunished. Pressures, targeting, as well as strategic lawsuits against public participation (SLAPPs) against critically oriented journalists and media often came from public officials and (especially) local authorities (UNS, 2023), producing a chilling effect and self-censorship. Poor economic conditions, job insecurity with a combination of pressures and the state of impunity, produced a hostile environment for free and independent journalism (RSF, 2023a).

Within the **Market Plurality area**, Serbia scores a high risk of 71%, which means a risk decrease from previous year by 6 percentage points. This decreased risk result could be attributed to a methodological revision made in this area by CMPF and refers to the lifting of risk thresholds caused by the digital technological evolution in the media ecosystem. Besides, some substantial positive legal changes have been introduced by new LPIM provisions, regarding transparency of data on media ownership structure, as well as of the state aid funds obtained by media. The Law has significantly expanded the range of data to be entered into the Media Register and into the newly founded Records of Media Content Producers. Also, new LEM provisions establish clearer obligations, powers and sanctions, including more precise criteria for deleting media from the Media Register and other protection measures. So far, the application of LPIM and LEM provisions on functioning of relevant registers has proved very problematic in practice.<sup>[1]</sup> As a result, the level of non-transparency in the media industry in 2023 stayed high regarding even the most basic data on the domestic media market. We still have a problem in Serbia with a lack of transparent, relevant, and systematized data on revenues of the media sector by the national regulatory institutions. While, in general, television and digital media have more stable sustainability, revenues in the radio and print media industries have been declining but they survive mostly thanks to cross-media concentration, since the largest media companies gather different sectors of media production. Local media suffer unsustainability the most, since they operate in small, economically extremely weak local markets. As in the past implementations of MPM for Serbia, a high level of cross media concentration was noticed in audio-visual, print and online media industry. A serious problem has occurred since media concentration has risen over the last few years, especially Telekom Srbija's market share compared to its main privately owned competitor Serbia Broadband (SBB). The race between them cannot merely be viewed through the prism of market competition, but as an attempt to use the state-owned company to reduce the influence of the few SBB television stations which have a critical attitude towards the current government (MOM, 2023). In this regard, the risk for media pluralism is substantively increased thanks to the last legal change from 2023 that enabled the state to legalise its influence on media through Telekom, and to conduct even stronger control of the state over informing citizens and the media market. Editorial independence from commercial and owners influence was among indicators with the highest risks. The 2023 Law amendments did not implement effective and legally binding safeguards and instruments in this regard.

The **Political Independence area** remained with a high-risk assessment of 74% over the reporting period. Most media outlets are owned or controlled by entities close to the ruling party. The legislator missed the chance in 2023 to define the adequate and efficient legal safeguard against direct or indirect control of media by political actors, as well as the measures designed to ensure the independence of appointments and dismissals of editors-in-chief from political influence. Existing laws still do not identify media owners and management as the source of potential pressure. The biggest threats to the attainment of public interest come from the clientelist network, which is formed by the owners of media companies and politicians who exercise power, both at the national and local levels. These connections are non-transparent and difficult to prove, given the captivity of institutions (regulatory bodies, prosecutor office, etc.) in this hybrid political regime, and their negative consequences for media pluralism and the quality of democracy in Serbia are elaborated in numerous academic papers and reports (Djuric, 2023; IREX, 2023; Freedom House, 2023; Milutinovic, 2023; V-Dem, 2023). The state and ruling party exercise influence over private media in part through advertising contracts and other indirect subsidies. Yet, when it comes to governmental interference, the most striking legal change in 2023 was the introduction of the law provision that enabled the state-owned companies to establish and purchase media outlets. The government already owned/controlled quite a few media outlets, via the activity of the majority state-owned Telekom Srbija company, despite the law that was passed two decades ago prohibiting state ownership of media. Also, several sources point out that pressures from politicians and politically connected media owners, has led to the high rates of self-censorship in Serbian media. Harsh statements by the public officials, including targeting and labelling of critical media as enemies of Serbia are highlighted as a significant form of pressure (MFRR, 2023, p. 31), next to numerous SLAPP campaigns. The ODIHR's media monitoring during the 2023 electoral campaign observed: "While media covered all electoral contestants in line with the law, most national broadcasters lacked genuine analytical reporting, detracting from the voters' ability to make an informed choice" (ODIHR, 2023:, pp. 1-15). Similarly, CRTA <sup>2</sup> claims: "The campaign for the extraordinary parliamentary and Belgrade elections took place in an atmosphere of systematic abuse of institutions, public functions and the most influential media, which placed electoral actors in an unequal position" (CRTA, 2023a, p. 1).

The **Social Inclusiveness** risk level increased slightly in the reported period, up to the high-risk of 69%. While the sub-indicator of Media accessibility for people with disabilities remained the same highest-risk position with 88%, many other sub-indicators worsened their values. Thus, the Representation of women in media sub-indicator shows significant deterioration, rising to the second high-risk level position with 88%. Protection against disinformation also worsened and has a high-risk of 86%. There were no changes of the regulatory and self-regulatory framework on disinformation, that would have aimed at countering disinformation. Yet, there has been some modest improvement within the Media literacy skills sub-indicator in 2023. Local civil society, the media and fact-checking community, have been making valuable efforts in countering disinformation. The struggle of individual fact-checkers is made difficult by the fact that the spread of the false news sometimes starts from the political authorities and goes via their 'friendly' media. Particularly local media are under danger since they work under direct or indirect local authority influence and therefore produce content with controlled topics. Hence the issue of news deserts in Serbia is becoming increasingly significant, since it is related to the quality, relevance, and diversity of information, rather than with the number of local and regional media in a particular region or municipality (Blagojevic, Medic, & Sejdinovic, 2023).

## Focus on the digital environment



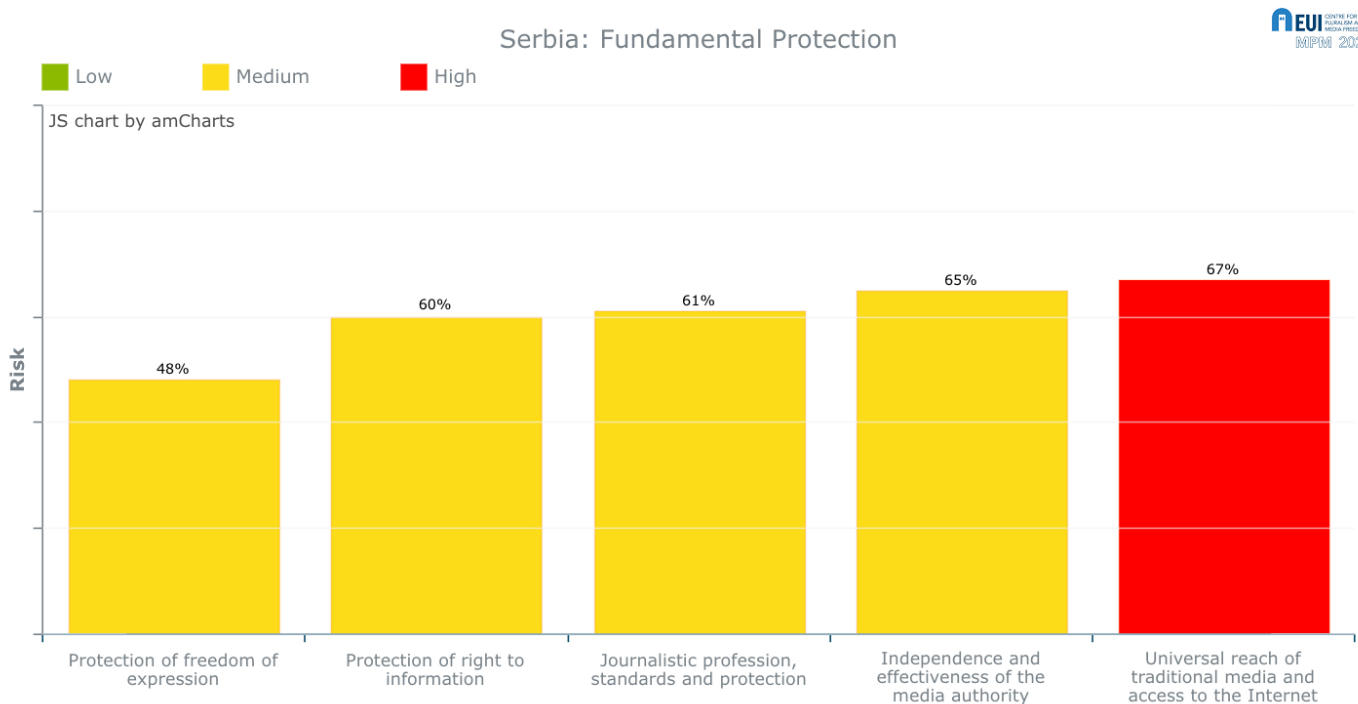
The risk levels for the online media environment decrease the risk assessments in the **areas of Political Independence** (to 63%), **Market Plurality** (67%) and **Social Inclusiveness** (62%). The area of **Fundamental Protection** is the only one where the risks to media pluralism and freedom are higher (71%) in the online sphere compared to the total area score. Consequently, risk assessment in the online environment is lower by three percentage points than in the whole, firstly thanks to a greater number of portals that function independently from the government. However, Serbia does not have a specific law regulating online content, so general media laws are applied in this area. Freedom of expression online is regulated by laws that concern legacy media as well, and its restrictions are not clearly defined in specific provisions for the digital sphere. The Republic of Serbia is one of the countries that does not have specific regulation on blocking, filtering and takedown of illegal internet content, so this area is also regulated by various laws not necessarily meant for the internet activities. Also, except for some general ones, there are no rules that prevent the illegal monitoring of journalists and media service providers by state authorities. The law still fails to exclude the possibility of disproportionate intrusion of privacy and the secrecy of communications, that is, it establishes data retention obligations which only partially comply with articles 8 and 10 of the ECHR. The Government took no initiative on the subject following the Media Strategy document, until the end of this reporting period (March 2024). Nevertheless, Serbia still belongs to the countries with free and open Internet; it guarantees free access to information, information-sharing and use of apps and services of users' choice. It is not familiar that the State reports on filtering and removals; there were a few cases of blocking, filtering and restricting content on the Internet in 2023, and the restrictions are assessed as proportional (Freedom on the Net 2023 Report).

Journalists are a frequent target of gross harassment, serious insults, and targeting via the Internet, so the most common form of jeopardizing the safety of journalists is done through social networks. Some critical media outlets were targets of the orchestrated campaigns of so-called trolls and deliberate dissemination of disinformation (NUNS & BIRN, 2023, p. 40). The unregistered and non-regulated online platforms act as a main spreader of disinformation and conspiracy theories. Serbia is identified as one of the WB countries with the strongest influence of disinformation and fake news (TechSoup, 2023). In recent years, many internet portals have been opened which share texts of other media without their consent or without respecting copyright. The curiosity is that these portals are often not registered in the media register, they do not have an impressum, it is not known who is behind them, who publishes them, who finances them.

Due to the lack of transparency, it is not possible to determine the real extent of political control over online media via direct or indirect ownership, nor to measure the online audience concentration. There are still no special regulations governing the running of a political campaign and transparency of campaign costs on social networks. Hate speech is prohibited by law on news portals and in reader comments, but due to insufficient application of existing legal frameworks and a lack of regulations for social networks, hate speech is often used and tolerated in the media. In this respect, especially the digital environment abounds with aggressive communication, threats, and insults.

### 3.1. Fundamental Protection (60% - medium risk)

The Fundamental Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy. They measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; the independence and effectiveness of the national regulatory bodies that have the competence to regulate the media sector, and the reach of traditional media and access to the Internet.



Serbia scored a medium risk in the **Fundamental Protection area** (60%). In general, this area experienced a slight deterioration in the reporting period, since risks to almost all its indicators have been assessed higher by a few percent each. Despite a new regulatory frame established in October 2023, by passing two new media laws – the Law on Public Information and Media (LPIM) and the Law on Electronic Media (LEM), the legislator missed the opportunity to improve legal protection of media freedoms and independence, in line with the 2020 Media Strategy. The fact that law changes "do not comply with international and European standards on media freedom and freedom of expression" (EFJ, 2023), can be one of the reasons for deterioration within the area of Fundamental Protection.

The **Protection of freedom of expression indicator** received a score of 48%. Freedom of expression is guaranteed by the Constitution and media laws, and the restrictions on freedom of expression are defined in line with international human rights standards. The laws prescribe that public information is free and not subject to any form of censorship. However, legal remedies in cases of infringement of freedom of expression are not always effective. Recent rulings in SLAPP cases against journalists and activists in Serbia (such as the one against the Crime and Corruption Research Network - KRIK) point to the need for additional training of judges and for the strengthening of judicial independence guarantees and protection from undue political or other influence (UNS, 2023; RSF, 2023a). In arguments of their rulings, judges continue to point out the need for greater protection of certain public officers in relation to citizens (Djuric, 2023, pp. 13-14). Although defamation was decriminalised in 2012, criminal legislation provides for criminal offences against honour and reputation, and one of them is insult.<sup>[3]</sup> Hence, an injured party, due to reputation and honour, has the right to compensation for material and non-material damage in civil procedure. The trouble is that current laws do not provide a dedicated anti-SLAPP regulation in line with

international standards, even though Serbia is ranking high on the list as 10th among 35 European countries with 28 registered lawsuits (CASE, 2023). The goal of such lawsuits is mostly to put pressure on critical media and journalists who deal with delicate investigative topics (Commissioner, 2023).

The **Protection of right to information indicator** received a medium-risk score of 60%. The right of access to information is explicitly recognised by the Constitution and by a specific Law on Free Access to Information of Public Importance (LFAIPI). The exemptions from this right are consistent with international standards.<sup>[4]</sup> The law prescribes a right to complain to the Commissioner for the Protection of Information of Public Interest and Personal Data Protection in case of the denial of access to information. Access to information is used primarily by investigative journalists, so journalists and media are specifically recognized in the law regarding appeal mechanisms on denial to access the information. However, journalists increasingly face difficulties when attempting to access information on the work of public authorities. Over years the same problems persist, such as long deadlines for authorities' action, delaying the response, as well as to act partially under requests or only after the complaint was lodged and the Commissioner had reacted. Moreover, it is evident from the very high share of the rulings that have not been complied with (32.4%) after the Commissioner ordered the respondent authorities to grant access to such information (Commissioner, 2023). However, the Commissioner itself usually demonstrates passivity when it comes to certain issues, such as misuse of data during the 2023 elections (e.g the SNS call centre issue) (CINS, 2023a). Information is still most often withheld by public administration under the pretext that it is confidential or that giving it would violate someone's privacy. On the issue of protection of whistleblowers, there have been no improvements. Judicial protection of whistleblowers is implemented, but current legal mechanisms are not sufficient and effective.<sup>[5]</sup> Protection is particularly problematic in cases where whistleblowers have disclosed some confidential information directly to the public (UNCA Coalition, 2023). They found themselves, most often, confronted with numerous administrative obstacles. Not only that the law does not prescribe criminal offenses or misdemeanours for some of the most serious violations of whistleblower rights, but potential legal threats to the position of the whistleblowers have not even been removed. They might arise from the new law which would regulate internal affairs and work of the police, regarding the introduction of the institute of biometric surveillance. Incorrect implementation of regulations could create the possibility that the identity of journalistic sources and whistleblowers who meet with journalists will be accidentally or intentionally revealed, and that the work of investigative journalists may be jeopardized. So far both draft laws on internal affairs were withdrawn by the proponent after public discussion, upon the request of the professional public and civil society. But the current social context in Serbia is extremely unfavourable for whistleblowers, so it is not surprising that practice and experience have a very disincentivizing effect on potential whistleblowers to report corruption, illegalities, violations of human rights and other irregularities.

The **Journalistic profession, standards and protection indicator** received a risk-score of 61%, which is higher by four percent points compared to the previous Report. Journalists continue to work in very difficult conditions, being the target of many attacks and pressures. NUNS (Independent Journalists' Association of Serbia) recorded more attacks and pressures in its database in 2023 until the middle of October than in the whole previous year.<sup>[6]</sup> Critically oriented and investigative journalists are under constant pressure, and threats, intimidation and violence against them are particularly prominent at local level. Particularly, many cases of tagging journalists and media by high-ranking officials have been recorded, "preventing the creation of an environment where freedom of expression can be exercised without hindrance" (EC, 2023, p. 42). Also, the pro-government tabloids continued smear campaigns against critically oriented media. Verbal attacks, hate speech and discriminatory terminology are often used in these media, but are rarely followed up by regulatory authorities or prosecutors. Besides pressures that make their work difficult, poor working

conditions for journalists are also determined by low salaries, irregular payments, insecurity and uncertainty of survival in the media outlets: "As many as 90 percent of journalists in Serbia have low wages, wages are lower than average, often below the minimum wage, and most are engaged with inadequate contract or without it, and until the situation is improved, there will be absolutely no free media" (SINOS, 2023).<sup>[7]</sup> Salaries vary significantly between different jobs, and underpayment is particularly characteristic of journalists in local media (IREX, 2023, p. 10). There is no collective branch agreement in Serbia, and the largest number of journalists are engaged with an inadequate contract or without it. Journalists are often hired on a part-time basis, but there is a constant increase in hiring without specific employment contracts (so-called "black" or illegal work). Although the freelancers and self-employed journalists gained social security through new taxation scheme since January 2023, they are not considered as employees, nor do they enjoy any collective rights.<sup>[8]</sup>

There were no journalists killed in the Republic of Serbia in 2023. An incident was registered on 9 August 2023, when journalist Natalya Tyshkevich, famous for being critical of the Kremlin, was detained in a cell in Belgrade airport for 40 hours.<sup>[9]</sup> Some mechanisms for the protection of journalists were established and certain stages of prosecution became more efficient (such as the initiation of the procedure).<sup>[10]</sup> However, investigations in many cases were not efficient and took a long time, so many cases of attacks and threats against journalists remain unpunished. Three cases of impunity for murder were recorded on the Safety Journalists Platform (coe.int).<sup>[11]</sup> The Court of Appeals in Belgrade opened a re-trial in the case of the murder of Slavko Curuvija and gave a verdict of acquittal in April 2023. The final verdict was pending for more than 24 years after his murder.<sup>[12]</sup> There is no evidence of infringement of the protection of journalistic sources during 2023. However, the possibility of unauthorised interception of communications and access to the so-called retained communications may lead to the disclosure of a journalist's source.<sup>[13]</sup>

The **Independence and effectiveness of the media authority** indicator is at the medium risk score of 65%. The relevant media authority is the Regulatory agency for Electronic Media (REM). Insufficient transparency, politically motivated decision-making processes, and insufficient response in cases of violations of legal acts and delegated legislation, have been main reasons why REM has faced both domestic and international criticism for years (EFJ, 2023; EC, 2023, p. 44). It was assessed that REM "protects the narrow interests of private broadcasters and the ruling structures, rather than the interests of Serbian citizens" (IREX, 2023, p. 14), while "damaging to democracy, solidarity and institutional trust" (Djuric, 2023, p. 11). After the tragic events that took place in May 2023,<sup>[14]</sup> several organizations demanded resignations from members of the REM Council. It was recognized as responsible mostly due its inaction against TV Pink, which has been constantly violating rules and broadcasting reality shows rife with violence, obscenities, clashes, aggression.<sup>[15]</sup> Moreover, in July 2022, REM re-awarded all four national television licences even though these four TV stations received warnings from REM due to violations of their legal obligations during the previous period. In October 2023, some legislative interventions followed, bringing some positive changes. First, the exclusion of the National Assembly Committee and the Assembly of AP Vojvodina from the process of nominating members of the Council (Article 12 of LEM).<sup>[16]</sup> Also, the new Law on Electronic Media introduced an article with a more detailed definition of the Regulator's work scope (Art. 7), and the rules of incompatibility with membership in the Council were defined more precisely (Art. 15). However, the Law foresaw the new Council members election by completely new criteria, one year after the date of its entry into force, but not right after the Law adoption even though its current composition does not guarantee that it is able to tackle many permanent problems.<sup>[17]</sup> Finally, new LEM introduced the function of director of the REM (Article 8), but the Law has not precisely defined its competencies. Also, the Law did not oblige REM to act upon complaints from citizens and organisations, which will allow this body to continue to „turn a blind eye to violations of all the rules of the profession" (CMF & CRTA, 2023). Overall, the legislator missed the opportunity to improve the issue of the Regulator's tasks and responsibilities completely in line



with the Media Strategy and AVMS Directive, carrying out its emancipation from the state administration. In addition, media experts warned that the stricter criteria for who can be a member of the REM Council may not contribute to the better functioning of this body: "The state authorities will always find people who will fulfil their criteria" (Report Belgrade, 2023).

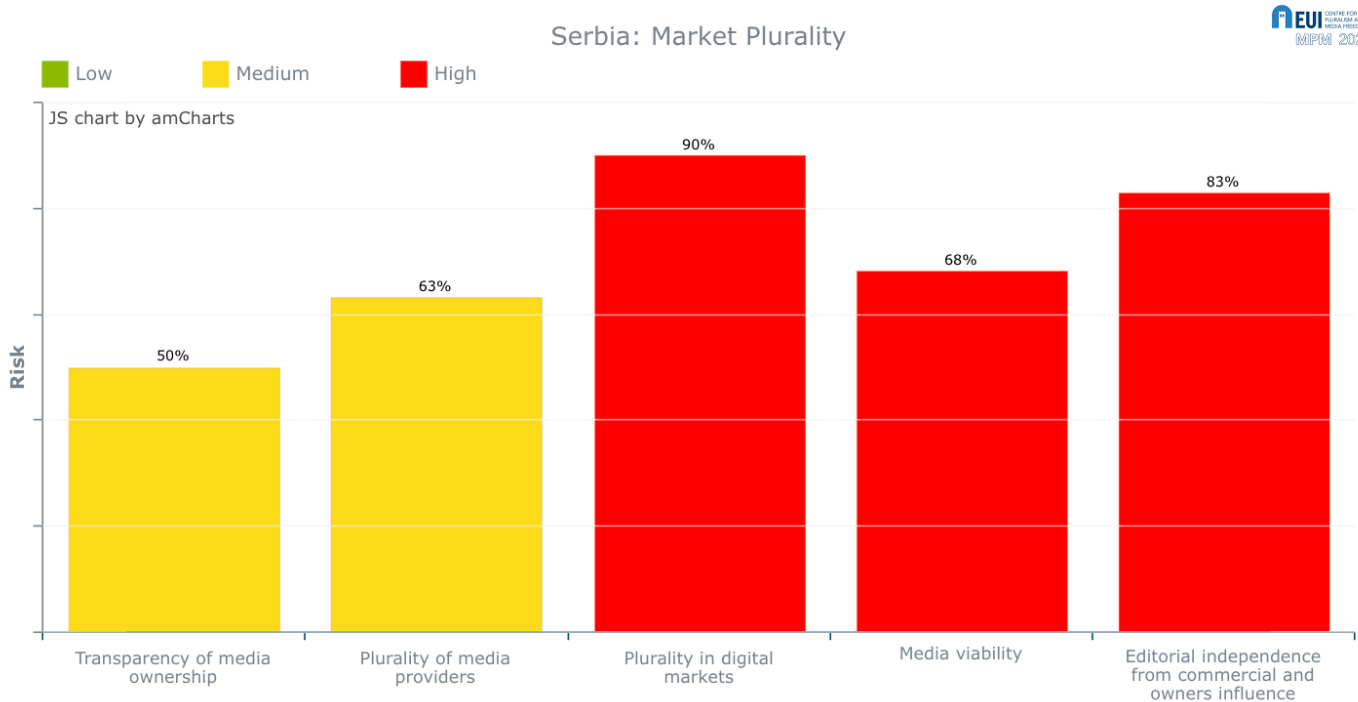
The **Universal reach of traditional media and access to the Internet indicator** gained the highest risk score rise (from 35% up to 67%) in the reporting period.<sup>[18]</sup> Public Enterprise "Broadcasting technology and connections" is providing digital TV and radio signal with population coverage of some 98.5%. In 2023, 85.39% of households were covered by Broadband Internet connection, which positioned the Broadband coverage sub-indicator within the high-risk scale, according to new methodology and used data sources. The average broadband Internet download speed was 60.53 Mbps (world rank 58). The largest telecommunications operators are Telekom Srbija (with majority ownership by the state) and SBB (privately owned corporation). According to the official data for the third quarter of the 2023, the biggest 4 ISPs had 91% of market shares: Telekom Srbija (with market share 55.8%), SBB (28.5%), Yettel (4.0%), Orion Telekom (2,7%) (RATEL, 2023, p. 11). Serbia has a certain level of guarantees of internet neutrality in its regulatory framework.<sup>[19]</sup> But the major issue for the achievement of their purpose is the disputable independence of regulatory bodies implementing the law, as well the lack of transparency of the work of both operators and competent regulators. EC 2023 Progress Report assessed that "No progress has been noted concerning the implementation of competitive safeguards. Ongoing issues remain to be addressed, including access for users and operators to infrastructure including optic fibres, ducts and public operators' infrastructure and dark fibres, and remaining restrictions imposed by environmental and municipal planning legislation, in particular at local government level. The working group tasked with identifying and providing recommendations to remove these obstacles has not provided any output to date" (p. 112).<sup>[20]</sup>

## Focus on the digital environment

The risk assessment for the **digital Fundamental Protection area** is higher than average (71%). The main reason for this remains to be the absence of specialised regulations for digital media. General media laws intended primarily to legacy media (the Law on Public Information and Media - LPIM and the Law on Electronic Media – LEM are applied in this area, as well as the Law on Electronic Communications (LEC) and the Criminal Code (CC). When it comes to self-regulation, there is the Guidelines for implementation of the Serbian Journalists' Code of Ethics in an online environment (Press Council, 2021). Serbia still belongs to the countries with free and open Internet; it guarantees free access to information, information-sharing and use of apps and services of users' choice. Restrictions on the internet were minimal and proportional in 2023, and general media laws were not used to stifle or restrict online speech (Freedom House, 2023, B3). In February 2023, Meta revealed removing a network of 5,374 Facebook fake accounts, 12 Groups and 100 accounts on Instagram that engaged in “coordinated inauthentic behaviour” to support President Aleksandar Vucic and criticize the political opposition. Meta announced that behind these accounts were some state employees linked to a group of the Serbian Progressive Party (SNS), known as the Internet Team. The network also operated on Twitter, YouTube, and local media sites. Afterwards, in July 2023 SHARE Foundation noted that X (ex-Twitter) published a list of almost 15 thousand SNS bots. Many cases of endangering the safety of journalists via the Internet happened in 2023, and the most threats were done through social networks. That number is growing every year, but the protection mechanisms have not been properly developed yet. The NUNS database of attacks and pressures on journalists, shows that out of a total of 168 recorded cases of attacks and pressures, almost 50 were committed online. The attacks include a set of technical attacks on computer systems, websites, emails, other equipment or digitised documents, as well as verbal threats, insults, intimidation, discrediting, hate speech, and abuse of digital identity or private data (NUNS & BIRN, 2023, p. 40).<sup>[21]</sup> Criminal offences against journalists committed online fall under the jurisdiction of the Special Prosecutors Office for High-Tech Crime. Legal experts consider that the Criminal Code is not adapted to modern technologies, and it is very difficult to prosecute persons who commit criminal offences on the Internet, especially on social networks.<sup>[22]</sup> There are yet no specialised rules that prevent the illegal monitoring of journalists and media service providers by the State authorities.<sup>[23]</sup> Belgrade Centre for Security Policy (BCBP) listed a number of cases with strong indication that the Government or private pro-Government actors gained information through illegal monitoring of journalists (BCBP, 2023, pp. 15-16).<sup>[24]</sup>

### 3.2. Market Plurality (71% - high 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 **Market Plurality** area registered a high risk of 71%, a decrease in risk by 6 percentage points compared to the situation in 2022. This change could be explained in two ways. First, the decrease in the risk score for the indicator on concentration of media providers derives from methodological changes, not from changes in the legal environment nor in the market shares of the main actors. Second, 2023 legal changes prescribing stronger rules on transparency of data on media ownership structure, and on the state aid funds obtained by media, effected the lower risk assessment. The main risks were linked to the indicators of Plurality in digital markets and Editorial independence from commercial and owners' influence. The biggest risks came from non-regulated financial obligations of the online platforms and from the media owner interests sub-indicator, as well as from the online platform's concentration and competition enforcement in digital markets. The newsroom integrity and content integrity sub-indicators were also tied to very high risks, while the sub-indicators on the media ownership transparency ranged within medium risk scale.

The medium risk score of the **Transparency of media ownership indicator** was reduced to 50%. The Law on Public Information and Media (LPIM) and the Law on Electronic Media (LEM) were introduced in October 2023, with new provisions expanding the range of data to be entered in the relevant registries. Under LPIM, the media are obliged to provide information about their publisher on their website or in their print edition, as well as to report each change of the ownership structure and editor-in-chiefs to the Media Register of the Serbian Business Registry (APR), within 15 days. Also, the new LPIM prescribes that data on the average media circulation sold in the calendar year should be registered into the Media Register (Art. 47), provides mechanisms for up-to-date data entry in the Register (Art. 48), establishes criteria for deleting media from

the Register (Art. 49), and establishes adequate sanctions for non-compliance with legal provisions (Art. 147-148). Several provisions that were envisioned in the Media Strategy (2020) have also been introduced by the new LEM, including the data on ownership structure of media publishers, and on money and other donations from public revenues (Art. 47 LEM). Besides, the Records of Media Content Producers has been introduced to ensure that data on funding allocated to the entrepreneurs involved in the production of media content, is visible in the newly formed register, i.e. Records (Art. 45 LEM). There are also new provisions regarding supervision and control of the Electronic Media Regulatory Authority (REM) (Arts. 31-45), but accountability rules for performing control of data accuracy and currency have not been improved. Nevertheless, LEM failed to improve the connection between central APR Media Register and other public registries through automatic download, although this was projected by Media Strategy.<sup>[25]</sup>

In the MOM report of 2023, transparent ownership is registered for 95% of media companies in total, while ownership is not transparent (data was unavailable) in 5.4% of cases (MOM, 2023). This result indicates an improvement from 2018, when media ownership was not transparent in 14.6% of cases. However, for the majority of the media outlets (83%) ownership data was at least publicly available upon request at the Serbian Business Registers Agency, while for the minority of media (11.6% of outlets) ownership was actively transparent, which means proactive and comprehensive public information. Therefore, MOM estimated media ownership transparency overall as passive. The coming period will check the effectiveness of the new prescribed legal measures.

The **Plurality of media providers indicator** was assessed within a medium-risk score of 63%. The TV market was highly concentrated as the four major owners represented the audience share of 55%. Radio market and print market were moderately concentrated with the four major owners reaching 45% and 48% of the audience, respectively. Data on market shares were not provided by the media nor by the competition authorities.<sup>[26]</sup> The issues of forbidding a monopoly in the media are regulated by the media laws (LPIM and LEM), the Advertising Law (AL), and the competition laws in parallel. There are two bodies competent for overseeing concentration and compliance with ownership limitations in the media: the Ministry of Information and Telecommunications and the Regulatory Authority for Electronic Media (REM).<sup>[27]</sup> The LPIM prescribed the prohibition of monopoly in the public information sphere, by setting too high thresholds for the concentration of media ownership (MOM, 2023). When it comes to horizontal concentration of ownership in the media sector, the LPIM prohibits mergers of ownership and managerial rights of two or more daily paper publishers (and printed media publishers) surpassing the limit of 50% of annual circulation on the territory of Serbia, or of two or more publishers providing audio or audiovisual media services with the total reach of more than 35% of audience shares (Art. 53). Accordingly, LEM prescribes that the Regulator shall not issue a license for the provision of media services if it determines that this would lead to a violation of media pluralism. Cross-media concentration is regulated in a similar way as horizontal concentration, when threshold and authorities are concerned. Generally vertical concentration by one company is prohibited, but LPIM allows ownership in another type of media or in distribution through an affiliated legal person. Thanks to this opportunity, two biggest internet and cable providers (Telekom Srbija – the company with the state as the biggest shareholder, and privately owned SBB – within the United Media group) are also owners of TV stations, digital natives and even print media.<sup>[28]</sup> The race between them took place in favour of Telekom that significantly exceeded SBB's market share.<sup>[29]</sup> This competition cannot merely be viewed through the prism of market competition, but "as an attempt to use the state-owned company to reduce the influence of the few private television stations which have a critical attitude towards the current government" (MOM, 2023). The current development of the situation is concerning, since over the last decade, a serious problem arose from ignoring the laws that required the state to withdraw from media ownership. Telekom Srbija has previously admitted its control over five private television stations (IREX, 2023, p. 13). After that, in October

2023, the legal situation was changed when the new media law enabled the legal entities whose founder is state to establish and purchase media outlets, if engaged in electronic communications activities (Art. 38, Para 5, point 2 of LPIM). So, there are reasonable doubts that this would enable even stronger control of the state over informing citizens and the media market (Blagojev, Medic, Sejdinovic, 2023, pp. 46-47). EC 2023 Progress Report noted that "an important step was taken with respect to the application of criteria aligned with the EU *acquis* to the assessment of state aid", but it also highlighted that "safeguards to protect media pluralism and editorial independence remain to be improved" (EC, 2023, pp. 41-42). It is ascertained that the new laws also prescribe insufficient and inadequate criteria for the assessment of media pluralism. The new media laws failed to improve methods for measuring ownership shares and media concentration thresholds. Moreover, the legislator did not make an analysis of the media market before introducing new laws (media content distribution market, advertising market, etc.), nor determined clearly powers of the Regulatory Authority for Electronic Media (REM) in the process of determining whether there has been an unreported merger of media ownership.

The **Plurality in digital markets** indicator had the highest individual risk score for all indicators – 90%. Due to the lack of published, relevant and reliable data, it was impossible to measure the online audience concentration, including all the actors in the digital markets. It is assessed that 70% of total digital advertising in the Serbian market went directly to global providers and ad services (Google and Facebook), while the remaining 30% went to local Internet media (publishers) and ad providers. This trend has been particularly strong from 2017 (Media Market Assessment Study, 2023, p. 24). The evolution of competition law in the growing digital markets has not yet happened in Serbia. Financial reporting obligations are regulated by the Law on Accounting, that is applied generally to legal entities and entrepreneurs, among which are media publishers and media outlets, as well. But there are not any specific rules on the disclosure of financial information to the competent authorities by the digital native media sector. Similarly, the online advertising market is regulated by the general provisions of the Advertising Law (Art. 45), but there are no special provisions which deal with concentration in the online advertising market. Further, the Serbian legal system on copyright legislation has not been aligned with EU Directive 2019/790, which means that the measures to promote publishers' remuneration by the digital platforms were not provided. With the latest amendments to the VAT Act, which refers to the payment of VAT for digital services from abroad, the position of foreign companies that provide their digital services or sell digital products in Serbia has changed.<sup>[30]</sup> Tax obligations for some digital products and services are regulated in this way, for example: domain, hosting, online presentations, streaming services, digital gaming platforms, video streaming, Google products, mobile phone applications, Facebook advertising services, Amazon, Netflix and other digital services. However, there is no introduced mechanism for the digital taxation of Internet giants in Serbia. Digital markets have not yet been adequately and comprehensively regulated by any specific law. The European Commission recommends: "In the e-commerce domain, alignment with the Digital Services Act and Digital Markets Act needs to be stepped up, to provide predictability for the business community" (EC, 2023, p. 113).

The **Indicator of Media viability** showed a rise of risk by 10 percentage points in the reported period, up to 68%. The **sub-indicator of the public incentives to media pluralism** remained at medium-risk score of 50%, while the **revenue trends sub-indicator** was situated within the (almost same) high-risk score (72%), and **employment trends** also had high-risk of 75%. Officially, the number of employed journalists was stable in 2023. However, there were no more than 55% of journalists with employment contracts in Serbia (Djuric, 2023, p. 23). Their working conditions were getting worse, and among them were many "forced freelancers"<sup>[31]</sup> (SINOS, 2023). We still have a problem in Serbia with a lack of transparent, relevant and systematized data on revenues of the media sector by the national regulatory institutions. Also, the

industry's associations were not willing to provide precise, comparable and consolidated economic data on all revenues (advertising, pay-TV revenues, on-demand consumer revenues, etc).<sup>[32]</sup> Based on the WARC estimate, revenues in the radio and print media industries have been declining. Radio outlets usually survive working within companies engaged in different business sectors (such as cable telecommunications, consulting activities, marketing, and construction of buildings). Like that, print media has been facing a steady decline over the last years (IPSOS & IREX, 2023, p. 11), and survives thanks to cross-media concentration, since the largest media companies gather different sectors of media production. Leading publishers receive a considerable portion of their revenue from their digital media and production of digital content on their webpages and portals. This makes them attractive to advertisers since their multichannel character (combination of Internet, print, radio and TV) attracts a wider media audience. But what is common knowledge is that Serbia's print media advertising market has suffered a continued decline over the past 10 years.<sup>[33]</sup> Doubtless, local media suffer unsustainability the most, since they operate in small, economically extremely weak local markets. Media with national coverage have advantage when it comes to the participation in the advertising market, while citizens' low purchasing power limits the possibility for local media content monetization (such as subscription-based models). Since project co-financing is the prevailing model for the financing of local media, the funds intended to inform citizens from local budgets are being directed towards the media that support the policies of the ruling party. So, without donor aid from abroad, hardly any of them would survive. The new Law (LPIM) improved rules for the distribution of direct subsidies to media outlets through the project co-financing model. The initiative of introducing a unified information system for implementing and monitoring the co-financing of projects in the media sphere, was positively assessed by the European Commission (EC, 2023, p. 40). In the previous period, including 2023, the rules on the allocation of direct state subsidies were either not clear or the process of allocation lacked sufficient transparency or showed signs of political bias.<sup>[34]</sup> As BIRN shows, about 15 million USD was spent annually through this mechanism, and pro-government media were the biggest beneficiaries of this type of support, including tabloid media as well, despite their numerous breaches of the ethical code (MOM, 2023). Besides many abuses in the system of co-financing, funds were also allocated using legal loopholes in regulations, deficiencies in procedures and weak control of these procedures by inspections.<sup>[35]</sup>

**Editorial independence from commercial and owners influence** had the high-risk score of 83%. The new Law on Public Information and Media (LPIM, 2023) introduced a more precise provision guaranteeing that "Editor's employment cannot be terminated, his salary reduced, nor can he be demoted for a refusal to execute a request by which he would break legal and ethical provisions of journalist profession" (Art. 63, Para. 4 of LPIM).<sup>[36]</sup> This Law grants journalists the right to refuse to execute an editor's order if this would violate regulations, rules of profession and professional journalistic ethics (Art. 56). Also, LPIM forbids publishing a journalist's contribution of which the meaning has been changed through editorial process, under the journalist's name without his consent (Art. 57, Para. 2 of LPIM). But, despite of the fact that the Media Strategy Action Plan stipulated amendments to the Law on Public Information and Media to provide guarantees for the rights of editors in relation to instructions of the owner and the media management (Action Plan, 2020, p. 14), the new Law has not provided such legally binding safeguards and instruments. In practice, journalists still "come under various forms of internal pressures on a daily level. The reasons for such pressure are mostly of political and financial nature and are related to realisation of profit with private media" (Djuric, 2023, p. 25). That's why the sub-indicator on Owner interests had even a maximal risk score (100%) last year, since none of the mechanisms granting protection to journalists in case of changes of ownership were not implemented. Despite some improvements, the regulatory framework did not explicitly identify media owners and management as the source of potential pressure and did not grant an adequate level of protection to editors.<sup>[37]</sup> Besides, there are no social protection schemes, or other legal and economic guarantees, such as collective agreements or "conscience clauses". Most private media do not have

internal regulations that distinctly regulate their internal organisation of separating newsrooms from management and ownership. There is still only a weak self-regulatory safeguard within the Serbian Journalists' Code of Ethics, but the effective legal protection does not exist.<sup>[38]</sup> The law does not identify sanctions for violating above mentioned rules.

## Focus on the digital environment

The **Digital Market Plurality area** registered the lower high-risk assessment in 2023 compared to previous year (67%). The new Law of Public Information and Media (LPIM) introduced the registration in the APR Media Register of data which should apprise the public of the ownership structure of digital media, as well as of the state aid funds obtained by these media (Art. 47). Yet, there is still no law that specifically regulates internet portals as a separate form of media. As the overarching law, LPIM covers the digital news media sector, recognizing as media only “electronic editions of legacy media and autonomous electronic editions (edited internet pages or internet portals)” (Art. 35, Para. 2).<sup>[39]</sup> Sanctions for the failure to register were prescribed: depriving the media of the possibility to apply for projects in open calls for co-financing or other forms of state aid, as well as of the right to advertise legal entities partially or fully funded from public revenues (Art. 52).

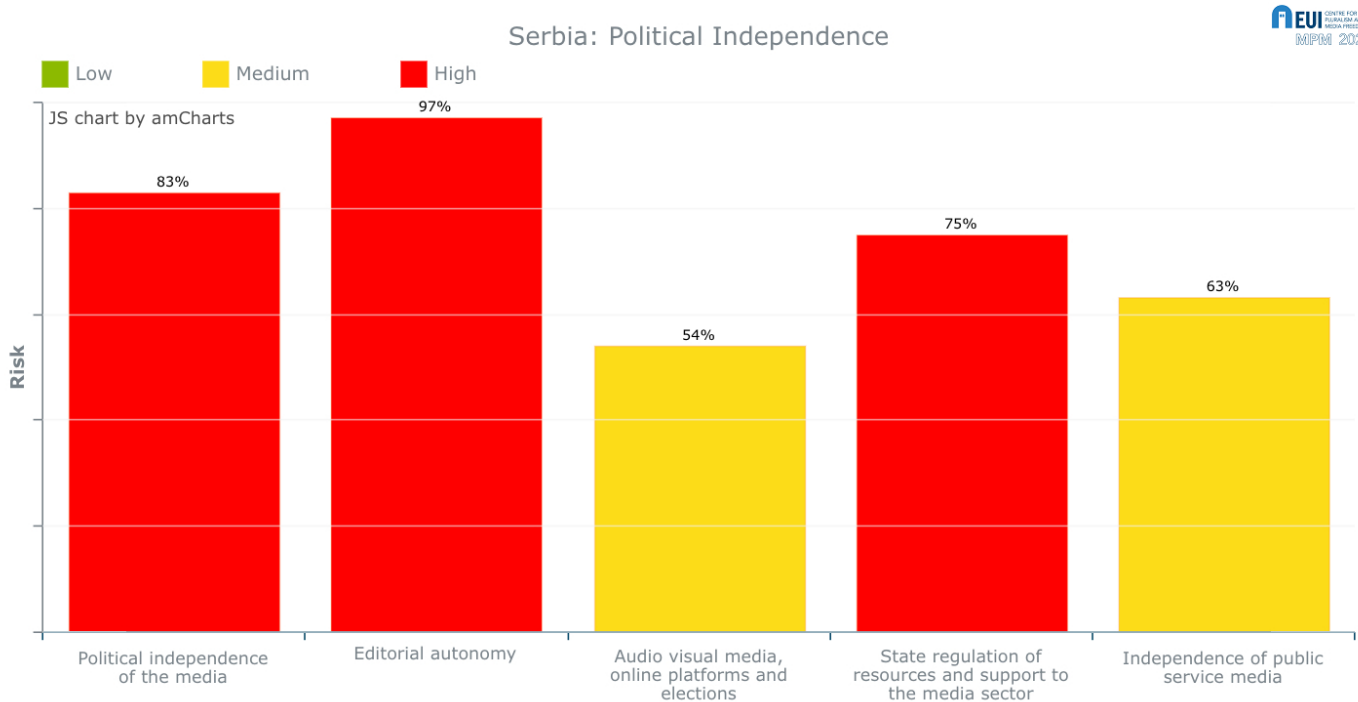
The number of registered online media in 2023 was only 77 (SHARE Foundation, 2023). Ownership was not transparent for many internet portals. That has negatively affected media pluralism and freedom as such portals were usually spreaders and distributors of disinformation. Also, in recent years, many internet portals have been opened, and share texts of other media without their consent or without respecting copyright. The curiosity is that these portals are often not registered in the media register, they do not have an impressum, it is not known who is behind them, who publishes them, who finances them (Report, 2023). Moreover, digital media that operated without transparent impressum and spread disinformation were not sanctioned. Researchers see numerous online portals for which there is practically no regular monitoring as special “loopholes”.<sup>[40]</sup> Online market, in the segment of news portals, was highly concentrated with 71.55%. Only a few online media generated millions of views, which meant very high level of the auditorium concentration.<sup>[41]</sup> Tabloid and propaganda media stand out among the ones with the highest number of visits, which also receive special treatment from institutions, and are the most desirable partners for state advertising. BIRN Serbia claims: “In this way, a unique trio of power - state - techno-companies - media is created and strengthened, which has a key influence on the economic viability of all media in Serbia” (BIRN, 2023).

National authorities and media regulators do not supply us with accurate and current data on revenues of digital native media, and statistical authority gives only summary assessments. Hence there are signs that allow us to make some assumptions in this regard, but it is not enough to make a clear assessment. Online media are equal in terms of project co-financing, which is carried out at the national and local level. The primary condition for an online media publisher to apply for these funds is that the online media is registered in the Media Register kept by the Business Registers Agency and is not financed from public revenues (Art. 22 LPIM). In 2023, 298.85 million dinars (about EUR 2.5 million) was allocated to online media, which was a much lower amount compared to the previous year. Cenzolovka found out that big amounts of the money that media received were used for non-intended operational expenses.<sup>[42]</sup> Also, it was noticed that the champions of attracting money from the state aid mechanism were always pro-government portals, regardless of the large number of the professional journalistic code violations (NUNS, 2024). Another type of abuse is related to the phenomenon that some portals were established right before the competition for co-financing and received huge funds, although they did not have any original content.



### 3.3. Political Independence (74% - high risk)

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



In the year of 2023 the **Political Independence** area scored the highest risk with 74% compared to other areas in Serbia, which also represents a significantly higher risk-score compared to the average value of the total sample (EU + candidates) risk assessment of 48%. The area risk assessment remained the same as in 2022, but some changes are visible within different indicators. Actually, in the reporting period, the risk assessment of the Indicator **Audio-visual media, online platforms and elections** was lowered by even 12 percentage points, and of the **Independence of public service media** indicator by 4 percentage points. The risk remained the same for the worst-scored indicator of **Editorial autonomy** (with almost the maximum 97% risk), while the indicators **Political independence of media** and **State regulation of resources and support to the media sector** were deteriorated by 8 and 12 percent points, respectively. The risks within the political independence of media and the state regulation of resources and support to the media sector have increased, due to the fact that pressures on critical media were intensified and due to misusing of public funds allocations to media by the current political regime. The indicators of audio-visual media, online platforms, and elections and of the independence of public service media moved from a high to medium risk band. That is mostly due to the legal changes from 2023 that extended official campaign ban during an election campaign and prescribed more precisely the obligations of the media to ensure equal reporting about all electoral contestants.

The indicator **Editorial autonomy** retained a very high 97% risk score. There are still no firm legal guarantees of editorial independence, nor improvements at all in this regard, despite new media regulations. There are no regulatory or organizational safeguards that prevent political influence over the appointments and dismissals of editors-in-chief, so "independent editors are the exception rather than the rule" (IREX,

2023, p. 5). The new Law on Public Information and Media introduced the right of journalists to refuse to execute an editor's order if this would violate regulations, rules of profession and professional journalistic ethics (Art. 56). Also, LPIM forbids publishing a journalist's contribution of which the meaning has been changed through editorial process, under the journalist's name without his consent (Art. 57, Para. 2 of LPIM). However, the law in general does not identify sanctions for violating these rights. Besides, this Law does not identify media owners and management as the source of potential pressure and does not grant an adequate level of protection to editors. Media outlets do not dispose of self-regulatory mechanisms that are completely in line with the Commission Recommendation on internal safeguards for editorial independence, neither.<sup>[43]</sup> The situation remained the same when it comes to a weak self-regulatory safeguard within the Serbian Journalists' Code of Ethics.<sup>[44]</sup> Usually media do not have internal regulations protecting the editorial independence from the media owners and politicians whose interests may jeopardise editorial independence.<sup>[45]</sup> Lack of trust and political interests that are directly related to profit remain the usual reasons for not adopting the internal regulations. Consequently, "journalists in private media come under various forms of internal pressures on a daily level" (Djuric, 2023, p. 25). Editors are usually appointed as loyal and reliable, so they control journalists' writing by soft censorship: "Particular form of pressure is still visible from the inside, by the management authority, owners who take into account assessments of marketing teams in setting and assessing goals, thus including the impact on the work of editors and newsroom" (ibidem). "A significant majority of journalists (68.7%) asserted that self-censorship has had an impact on both their professional undertakings and the quality of information conveyed to the public, of which 28.1% refraining from publishing intended stories, 26.6% stated that self-censorship limited the scope and importance of the story, and for 14.1% self-censorship resulted in an absence of vital information for the public" (Council of Europe, 2024, p. 13). They emphasised economic and political pressures, as well as the interference of the government, as key to the existence of self-censorship (UNS & NUNS, 2023). "It is considered that the entire social and political environment and state of impunity contribute to non-compliance with the basic principle of having newsrooms independent from owners and management structures" (Djuric, ibid.). The fact that current regulatory framework and self-regulatory guidance cannot guarantee editorial autonomy is also confirmed by the latest EC Progress Report, which states, among others: "...safeguards to protect media pluralism and editorial independence remain to be improved. The implementation of such safeguards will need to be closely monitored in practice" (EC, 2023, p. 44).

The **Political independence of media indicator** achieved a higher risk-score (83%) than in the previous year. In 2023, there was a legal development that contributed to the risk increase. The most striking legal change was the introduction of the law provision that enabled the state-owned companies to establish and purchase media outlets. Precisely, contrary to the Media Strategy, an exception to the rule that the Republic, autonomous province, or local government unit, as well as other entities in public ownership, cannot be media owners, has been provided by the new LPIM provisions (in Art. 39, Para. 5, point 2). It prescribes that this prohibition does not apply to legal entities whose founder is engaged in electronic communications activities, i.e., allows some legal entities founded by the state to become media publishers. The government already owned/controlled quite a few media outlets, via the activity of the majority state-owned Telekom Srbija company, despite the law that was passed two decades ago prohibiting state ownership of media.<sup>[46]</sup> Besides, the new media laws have not stopped proxy ownership or hidden ties of media owners with politicians.<sup>[47]</sup> The owners and managers of the biggest and the most influential media across all media sectors (audio-visual, radio, print, and digital), have been known as supporters of the leading political regime (MOM, 2023). Many of them have business interests and activities in non-media industries, from information technologies, PR and marketing, to construction, hospitality, transport services, food production, etc. The biggest threats to the attainment of public interest come right on from the clientelist network, which is formed by the owners of media companies and politicians who exercise power,

both at the national and local levels. At the same time, these connections are non-transparent, given the captivity of institutions (regulatory bodies, prosecutor office, etc.) in the hybrid political regime, but their negative consequences for media pluralism and the quality of democracy in Serbia are visible in numerous reports (Djuric, 2023; IREX, 2023; Freedom House, 2023; V-Dem, 2023). The recent indication of such an influence over media was visible through the consequences of the ownership change of a critical weekly magazine (NIN). Just a few months after that change, the new owner and director announced a strong change in the editorial policy of this long-term and prominent political magazine, which led to resignations and stepping down by the editorial staff and most journalists at the very beginning of 2024. The distribution of state subsidies and advertising funds (especially from public companies) is recognised as one of the indirect methods of pressure (MFRR, 2023, p. 31): "as per rule, media owned by companies and individuals close to government have easier access to state supporting mechanisms" (MOM, 2023). Also, as a form of pressure against media independence, harsh statements by the leading public officials, targeting and labelling certain media as enemies of Serbia were observed (MFRR, 2023, p. 31). Television N1 and the newspaper Danas were the most affected, as well as investigative portals (Djuric, 2023, p. 39), which introduce alternative voices in the public sphere, i.e. diversify sources, interpretations and media frameworks of a daily political agenda. The influence of the ruling SNS party over the media was particularly intensive at the local level, because it effects their sustainability (Blagojev, Medic, Sejdinovic, 2023, p. 39, 42).<sup>[48]</sup>

The **Audio-visual media, online platforms and elections indicator** received a medium risk score (54%), which means a risk reduced by 12 percentage points. The best assessed was the Rules on political advertising in audiovisual media sub-indicator with 13% low risk-score. The election law stipulates an obligation for the media to ensure equal reporting about all electoral contestants (Arts. 142-144 of the Law on Election of Members of Parliament). The new Law on Electronic Media (LEM) prescribed more precisely: the ban on the political advertising outside the election campaign; the unique criteria used to determine the price of political advertising and equal payment terms to all candidates and election lists; the obligation for media service provider to announce fees for political advertising before the start of the election campaign, and to ensure representation without discrimination to registered political parties, coalitions and candidates during the election campaign; to mark clearly the pre-election program; the ban on publishing a pre-election program in disguise in the form of informative, entertaining or other type of program, etc. (Art. 62). Broadcasters have the option to sell airtime to contestants, provided they set non-discriminatory pricing. The legislative changes extended the ban on coverage by broadcasters of public officials participating in public infrastructure inauguration events, if they are candidates, from 10 to 30 days (Art. 62, Para 7 of LEM), and supervision of the broadcasters was delegated to the REM, which should initiate a procedure for investigating violations concerning the election campaign ex officio based on its monitoring, within 48 hours (Art. 36 of LEM). Yet, despite welcomed legislative changes, ODIHR pointed out that the election race was unequal. First, the extensive promotion of governmental infrastructure projects during the campaign period by public officials who were not official candidates „tilted the level playing field" (ODIHR, 2023, p. 3). President Vučić and the ruling party dominated the prime-time news of PSMs as well as private national channels (ibidem, 15). At the same time, the oversight body (REM) maintained "a notably passive approach to regulating media conduct during the campaign" (ibid., 3). Monitoring of electoral campaigns by CRTA showed that the legal improvements "did not allow for balanced and objective information to be given to voters about the electoral offer" (CRTA, 2023a, p. 2). **The PSM bias sub-indicator** retained the same level of high-risk (67%). The special obligations for PSMs were defined by the Law on Public Service Media (LPSM), prescribing the principles of impartial, fair, and balanced presentation of political entities in special broadcasts dedicated to the election campaign. They were especially recommended to organize radio and television duels or debates by the Law (Art. 7, Paras. 2 and 3 of LPIM), while the more detailed rules on

monitoring the 2023 election campaign were defined by an internal act of the Radio Television of Serbia.<sup>[49]</sup> ODIHR observers assessed positively the RTS refusal to broadcast materials containing negative campaigning from all contestants (ODIHR, 2023, p. 15). And CRTA's monitoring found out that the public service media RTS1 "showed a somewhat more balanced approach", and its tone was more balanced compared to commercial television. But still "the representatives of the government were given significantly more space (72 percent) compared to the opposition (28 percent)", and representatives of the opposition were twice as often presented negatively compared to representatives of the government (CRTA, 2023a, p. 35). The **sub-indicator on Rules on political advertising online** remains the very high-risked with 88%, mainly because the current legislation does not cover Internet political advertising in an adequate and comprehensive way. A number of examples of personal data misuse by political parties for electoral campaigning purposes was registered prior and during the 2023 elections.<sup>[50]</sup>

The **State regulation of resources and support to the media sector indicator** scored a high risk of 75%, i.e. an increase by 12 percentage points within the reported period. The biggest risk increase was perceived in the **sub-indicator on distribution of government subsidies**. This was specifically related to direct contracting and public procurement mechanism, but concerns have also increased about the indirect subsidies. There is a minimum of regulations on indirect subsidies, but these were expected to be improved through 2023 legal provisions that should have been more comprehensive, guaranteeing clearer rules and transparency of indirect media subsidies.<sup>[51]</sup> This has not happened. When it comes to the direct state subsidies, they are mostly allocated through a so-called project co-financing mechanism through public competitions aimed at realization of the public interest. The state money is allocated by the national, regional, and local governments for the content production projects.<sup>[52]</sup> Most state funds are allocated to the media through project co-financing of the media. In the 2023 budget, about EUR 2.76 million has been allocated for the fulfillment of public interest in the information sphere. Out of this amount, 2.65 million was allocated for nine competitions for co-financing media projects in the area of public information by the Ministry (Cenzolovka, 2023). Other forms of contributions are subventions through direct contracts with the media and other entities to realize so-called media services that mostly boil down to monitoring the work of local institutions and public enterprises. The mechanism is prescribed by the Law on Public Information and Media. In the previous period, including 2023, the rules on the allocation of direct state subsidies were either not clear or the process of allocation lacked sufficient transparency or was politically biased. Some 15 million USD was spent annually through this mechanism, and pro-government media were the biggest beneficiaries of this type of support, including tabloid media, despite numerous breaches of the ethical code (MOM, 2023). This model of project co-financing was abused, first, by the selection of committee members who make unjustified decisions and award projects to media outlets that did not implement them or implemented them highly unprofessionally.<sup>[53]</sup> In general, it was assessed that "the current political system has made project co-financing meaningless", while intended to help local media cover local community topics "transformed into undisguised financing of local media suitable for local authorities" (IREX, 2023, p. 18).<sup>[54]</sup> Further on, many funds were also allocated in other ways, using legal loopholes in regulations, deficiencies in procedures and weak control of these procedures by inspections. For example, many funds were allocated via procurements of media services that were not visible to the public and were conducted through special internal procedures outside of the law.<sup>[55]</sup> When it comes to indirect state subsidies, there is a minimum of regulations and the latest legal changes have not brought any improvements in this regard. Although indirect state subsidies were rarely applied to the media sector, tax exemptions, financial incentives, debt rescheduling, and other preferences were available only to certain media publishers, which led some of them to a more favorable position on the market compared to their competitors (Djuric, 2023, p. 12; MOM, 2023). But the worst assessed is the sub-indicator on distribution of state advertising, with maximum risk score. The issue of state and political advertising in Serbia is not adequately regulated by the

Law on Advertising (LA) or by any other legal act.<sup>[56]</sup> There is no official, centralised or fully public data on allocation of state advertising budget. Current legal solution opens the possibility that public companies and institutions can order a very wide range of media services through advertising (Art. 3, Para 2 of LA). The process does not meet the principles of transparency; there is no competitiveness, not adequate monitoring, and market analyses that would justify the spending of funds are not publicly available.

In order to establish an effective legal framework that would take the state funding of media out of the “gray area”, the 2020 Media Strategy envisaged measures aimed to reducing the state influence on the media market and made it more transparent.<sup>[57]</sup> However, something opposite happened: the state influence seems to be increased since the state ownership was restored by new media laws. Yet, some regulatory improvements have been achieved within the new LPIM. Besides data on the amount of funds received directly or indirectly from public authorities, new rules require that a wider range of data shall be recorded in the Media Register.<sup>[58]</sup> Also, the Law prohibits state and local institutions and public companies to advertise in the media that are not registered and evidenced in line with the Law (Art. 52 of LPIM). Some of the novelties that LPIM will introduce into the media sphere are a unified information system for implementing and monitoring the co-financing of projects in the field of public information, and his initiative was positively assessed in the EC 2023 Report on Serbia (EC, 2023, p. 40). Besides, the Law introduced decisions made by the self-regulatory body Press Council on respecting ethical and professional code as one of the co-financing criteria (Art. 24 Para 1 items 2-4 of LPIM). Finally, regarding spectrum allocation, the legislation provides fair and transparent rules. The new Law on Electronic Communications (LEC) from 2023, improved the approach to the radio frequency spectrum and numbering.<sup>[59]</sup> But the main problem is the obstruction of the REM to enforce the law consistently.<sup>[60]</sup> The situation remained unchanged during 2023, even though new regulation has been adopted. None of the five private national broadcasters was not subjected to a review of the license to use the frequency, although none of these televisions met the minimum requirements for quality programming. Also, the process of allocating the remaining fifth national frequency is still not completed, and this process has been marked by numerous controversies (IREX, 2023, pp. 13-14).

The **Independence of public service media indicator** registered a very slight improvement in 2023 (reducing from 67% high risk to 63% medium risk score). Current legal regulations foresee the institutional autonomy and editorial independence of public media services. However, relevant reports warn about their personnel and financial problems, assessing that public media services are vulnerable to political influence (Commission, 2023; IREX, 2023; Djuric, 2023). The Law on Public Service Media (LPSM) prescribes the procedure for appointment of management and board functions in PSMs. The REM Council plays a direct role in the selection of their management boards’ members, while for the other two bodies (PSM Director General and Programme Council) REM’s influence is indirect. The very fact that the REM Council for years has been criticized by independent national and international experts due to its politicization, lack of independence, inefficiency, etc. casts a shadow on the credibility of the procedure and the validity of certain members’ election (Djuric, 2023, p. 11). Next, the current legal criteria prescribed for the selection of management and board functions in PSM are insufficiently clear and precise.<sup>[61]</sup> The Media Strategy projected several measures as to improve PSM legislation, such as the introducing clearer criteria for PSM Director General as for the Board members (in terms of qualifications and competencies). It was also planned to introduce a provision in the Law which would enable that only PSM bodies might participate in the process of appointment and dismissal of the Director General, other directors, PSM editors-in-chief (Action Plan, 2021, pp. 36-37). However, the amendments to the Law planned for implementation in the third quarter of 2022, are still pending to be addressed.

Since 2016, both public services (RTS and RTV) have been basically funding from citizens' taxes (a fee of 299 dinars per month, attached to the collection of electricity costs) and partly from the state budget.<sup>[62]</sup> The amendment to the Law on Temporary Financing of Public Media Services foresaw the possibility of public co-financing if needed, but RTS was not financed from the budget in 2023 (except for project financing).<sup>[63]</sup> RTV received state budget support both for basic and project activities. Public broadcasters are not able to survive without large budgetary subsidies, and direct financing from the budget makes a bigger part of all their revenues, which endangers their independence. Some legal experts considers: "It can be said that, first by abolishing the subscription fee and then by establishing an amount of the subscription fee that cannot provide for the functioning of public service media, the Government practically put the two PSM - RTS and RTV, into a position dependent on the state budget, which it also used to exert undue influence on these two media outlets" (Babic, 2021, p. 39). Radio Television of Serbia is the media outlet most trusted by citizens; however, it often faces criticism for being perceived as biased, and for being addressing public interest topics in a very limited manner. A complete domination of the authorities' representatives in central news and unbalanced coverage of all relevant political voices seems to be a permanent characteristic of public broadcasters' informative programmes.

### Focus on the digital environment

**Political Independence** scores 63% **in the digital environment**, which is below the overall risk score for this area. Several digital media in Serbia function outside of the large media companies with dominant economic goals and outside of the companies that are financed by the government or are under its influence, so they have greater editorial independence. Many of them are more objective and critical since through them we can hear voices of investigative journalists, civil society etc. Thus, they have the potential to function as a platform for democratic deliberation. However, legislation lacks comprehensive and precise regulations governing political advertising on the Internet, and the running of a political campaign and transparency of campaign costs on social networks.

The Law on financing of political activities (LFPA) stipulates that political subject that participates in an election campaign is required to submit to the Anti-Corruption Agency (ACA) a preliminary report on the campaign expenses up to 7 days before the voting day, and a final report on the campaign expenses within 30 days from the day of announcing the official elections results (Art. 29 Para 1). The Law also stipulates that the election campaign expenditure report shall be published on the website of the Agency for Prevention of Corruption (APC). However, it is assessed that the law changes did not lead to the higher transparency of the 2023 campaign financing: "As in the previous year, almost all of the report contain incomplete expenses listings and numerous cases where the expenses were not itemized but displayed only in total" (Transparency Serbia, 2023). The Transparency, OSCE and other relevant organizations consider that one of main deficiency of the report on campaign spending is its clarity, since the preliminary and final reports are designed in such a way to show cumulatively all the campaign expenses on the Internet. The report forms do not include a separate column for advertising on social networks.<sup>[64]</sup> Oversight over the finances of political parties and election campaigns is carried out by the APC. It is the Agency that is authorised to request these additional data, but it is not clear from the control reports so far whether it has done this.

The current Law on Advertising contains provisions on advertising in the print media and on Internet advertising (Art. 45 LA). However, these are just general provisions and do not cover any specific

terms related to political advertising. Unlike the registered online media, advertising on social networks is allowed during the period of campaign silence, as social networks are not regulated by the relevant Law on the Financing of Political Activities: “While campaigning in the traditional media is banned 48 hours prior to election day, these regulations do not apply online. All contestants campaigned on social networks, including on election day” (ODIHR, 2023, p. 19).

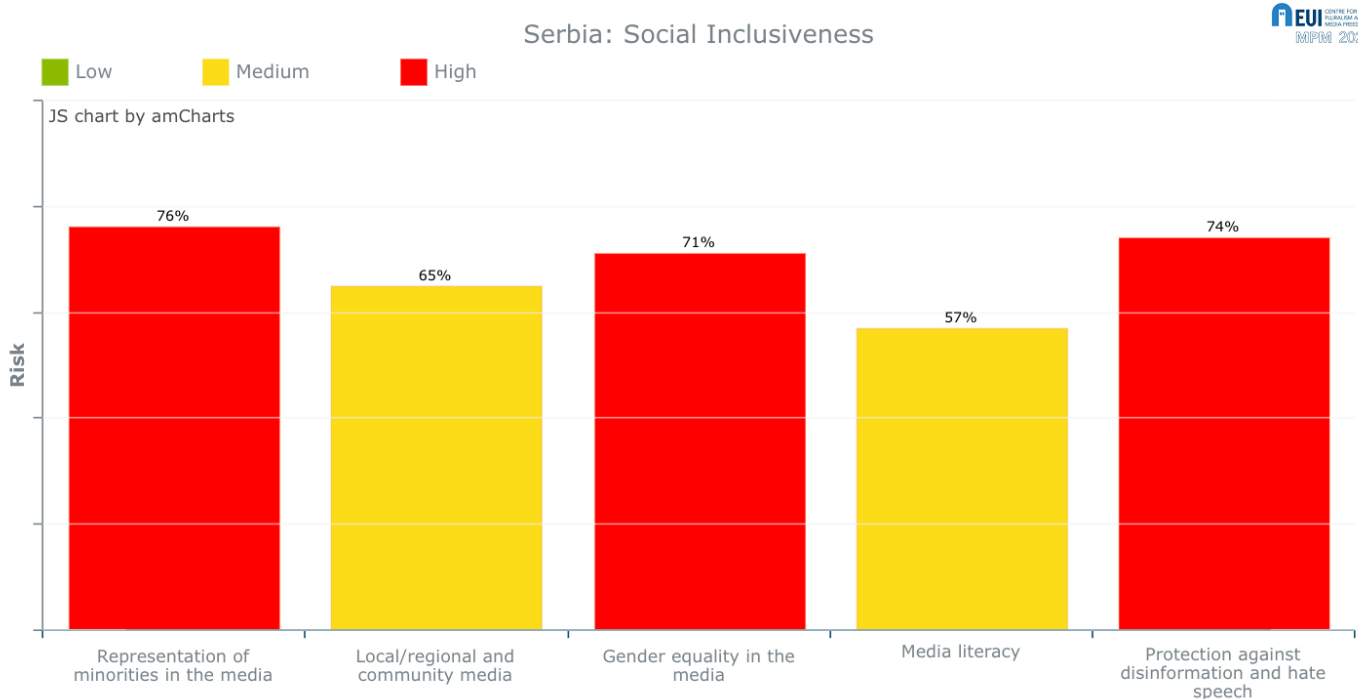
Meta placed Serbia in 2020 on the list of countries where certain level of transparency is being required in the field of political advertising.<sup>[65]</sup> These rules are primarily related to the paid advertising on Facebook and Instagram, and they mean that political parties and candidates must deliver certain data on the ads that they want to post.<sup>[66]</sup> Thanks to the possibility of insight into political advertising on Facebook, we have data on the paid advertising of individual participants whose party profile was clearly marked.<sup>[67]</sup> There is no rule that deals with online campaign finance disclosure, but some political parties published the data at their own initiative. When it comes to the elections for the national parliament, an insight into the preliminary reports available in the APC database on 11/01/2023 showed that only three out of 18 election lists reported campaign expenses on the Internet.<sup>[68]</sup>

Besides, Serbia is not included into the system of transparent verification of Google advertisers, which makes it practically impossible to research sponsored ads for Serbia on Google.

The EC 2023 Report admitted that the LFPA has been aligned with several ODIHR recommendations but highlighted that “Serbia needs to further align the law with the ODIHR and GRECO recommendations”, which means “explicit regulation of third-party campaigning, provisions on effective, proportionate, and dissuasive sanctions for violation and inadequate reporting. The Criminal Code needs to be brought in line with the Law on financing of political activities” (EC, 2022, p. 33).

### 3.4. Social Inclusiveness (69% - high risk)

The Social Inclusiveness area focuses on the access to media by specific groups in society: minorities, local and regional communities, women and people with disabilities. It also examines the country's media literacy environment, including the digital skills of the overall population. 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 **Social Inclusiveness** risk level fell into the high-risk category with a score of 69%. While the **sub-indicator of Media accessibility for people with disabilities** remained the same highest-risk position with 88%, many other sub-indicators worsened their values.

The **indicator of Representation of minorities in the media** received a higher risk-score (76%) than in 2022. Legally recognised minorities have access to broadcast time, but public broadcasters in minority languages were not sufficient, except for some local broadcasters in Vojvodina (EC, 2023, p. 50). The presence of ethnic minorities was proportionally represented on Radio Television Vojvodina 2 (RTV2). RTS still does not fulfil its obligation to, as a national broadcaster, provide enough relevant content for all legally recognised national minorities, even as it uses 13 national minority languages in its broadcast. Some improvements were noted, including the introduction of additional programs in Albanian on RTS as well as doubling of airtime for the multi-ethnic program 'Citizen', that in 2023 was aired twice a week. When it comes to legally unrecognized minorities, the situation has not been improved. It's obvious that legally unrecognized minorities do not have access to airtime on private TV and radio with the largest audience shares in the country. The European Commission maintains that public broadcasting services in minority languages need to be strengthened, in line with the Chapter 23 interim benchmark, especially as regards RTS (EC, 2023, p. 45). Similarly, the Council of Europe notes the overall progress in this area, but still recommends that "Serbian authorities facilitate the broadcasting of public and private radio and television programmes in the minority languages" (CoEECRML, 2023, p. 13).



When it comes to the **sub-indicator concerning Media accessibility for people with disabilities**, it received a very high-risk score (88%). There was a legal improvement in the Law on Public Information and Media that should be relevant for the future practice. The Law introduced a new stipulation on "support for the production of media content intended for people with disabilities and the adaptation of content to Serbian sign language, Braille, audio description and other suitable forms for people with sensory and intellectual disabilities" (Art. 15, Item 9). Yet, the programme accessible to persons with disabilities was very much underrepresented on public service media, while being completely absent from the programmes of commercial media service providers. Some parts of news programmes and some TV shows of public broadcasters were adapted for deaf persons and persons with hearing impairments by subtitling and sign language. In cooperation with the Association of the Blind of Serbia, RTS occasionally implements audio-description projects for the blind and visually impaired people, and since 2022 that is being introduced in RTS' streaming platform (RTS Planeta). During 2023 the state budget allocated about EUR 475.000 for the production and distribution of media content in minority languages and for people with disabilities (Ministry, 2023). However, the overall situation as well as the fact we do not have up-to-date information on the access to media means and services that enable informing of people with disabilities, shows that competent regulatory agencies in Serbia still do not have enough sensibility for this part of the media audience.

The **local/regional and community media indicator** received a score 65%, which keeps it on the upper limit of the medium risk range. The recent changes in the Electronic Media Law (LEM), introduced the legal possibility for the networking of the media service provider, in a way that they can produce and broadcast up to 40% of the joint programming, to achieve economic sustainability (LEM, Art. 111). Although it introduced certain safeguards (such as respecting the conditions of the license for the remaining of the program, obligation for broadcasting of the local informative programming etc.), the risk remains high. The oversight of the rules of networking is given to the REM, which suffers from lack of independence and capacity, and in the previous period it did not pay much attention to the local media oversight. The presence of "news deserts" in Serbia with regards to local media was confirmed due to the existence of many local administrative areas where *"it is difficult or impossible to access sufficient, reliable, diverse and independent local, regional and community media and information"* (CMPF, 2023). The issue of news deserts here is more related to the quality, relevance, and diversity of information since most local media work under direct or indirect local government authority and therefore produce content with controlled topics, rather than with the number of local and regional media in a particular region/municipality. Members of the ruling SNS party own many local media outlets. Besides, issues surrounding project co-financing and the trend of frequent SLAPP lawsuits seriously threaten independent local independent media's financial and personnel capacity. Co-financing media projects has become one of the few sources of income for local and regional media to survive. Since many of them do not have regular funding, and are on the edge of existence, one of the ways to have regular operation is co-financing by local governments or from the state budget through the media project co-financing program. Local media suffer from poor financial support from local institutions, if they are not in the group of those who are close to the authorities (Blagojev, Medic, & Nedimovic, 2023, pp. 38-42). Practice shows that national media, including those that continuously violate Journalists' Code of Ethics, receive significant funds at the local level, although they often do not have a single correspondent in those areas (ibid., 40).<sup>[69]</sup> What further complicates the establishment of adequate support systems is the lack of comprehensive, quantitative data on the local media market, either in the form of research on listenership, readership and viewership at the local level, or regarding the income of local and regional media (ibidem, 39). The advertising market is centralized, which is why local media are in an additional disadvantageous position. They are in an unequal race with national newspapers, and advertisers, especially large ones, are generally not interested in local audiences. Local and regional media are discriminated against in this respect, and it is not surprising that the 15 largest advertisers in the country do

not cooperate with any regional or local media.

Serbian laws do not explicitly recognize the category of community media but treat them as non-profit and civil media. The Law on Electronic Media (LEM) recognizes civil sector media as a third kind of supplier of media services and lists them in a separate category that lies somewhere between the public media service and commercial media (Art. 57). The Law of Public Information and Media recognises media services of the civil sector as non-profit media (Art. 36 LPIM). According to LEM and LPIM, civil sector media are required, as public media services are too, to adjust their content to the public interest, as it is defined in the Law. The new legal provisions have improved the legal framework for achieving the independence of media whose founders are the national councils of national minorities in Serbia. However, the same provisions are not prescribed for all other media that belong to the wider group of community media. Therefore, in general, mechanisms for protecting the independence of community media editorial policy have not been improved since the previous Report. Since Serbia is among the countries with the lowest level of trust in the media in the whole of Europe, community media are the only alternative to public and commercial media under political control (Council of Europe, 2022, p. 16). These media today exist on all traditional platforms and are especially present on the Internet media platform. *“Serbia does not have many of these outlets, but they play an extraordinary role in local areas. (...) These local outlets are a small percentage of the 2,600 registered media, but credible ones are useful for citizens and marginalized populations in local areas”* (IREX, 2023, p. 18). The LEM regulates the financial sources of the civil sector media, which are: public funds dedicated to competitive co-financing, donations, citizen contributions, sponsorships, and other sources of income in accordance with this law. The state supports community media with a limited number of direct and indirect subsidies.<sup>[70]</sup> Civil society media are still largely financed through the support of foundations (non-governmental sector) and individual donations, which puts them in difficult position, as this support is temporary and usually not sufficient to sustain serious and continuous work.

**Gender equality in the media** is associated with a high-risk 71%. Although the Law on Gender Equality was passed in 2021, and so was the National Strategy for Gender Equality 2021-2030 which recognized the importance of the media in achieving its goals, the answer remains the same as for the last year. Public Media Services have not developed internal plans for gender equality nor instruments to monitor equality and to encourage a more equal or quality work environment for all the employees. Out of a total of 18 members of the management boards of public media services in Serbia, only 3 are women.<sup>[71]</sup> In total, the share of women among the managers of public media services is 47%. Also, three commercial televisions with national frequency that have the highest ratings (RTV Pink, TV Prva and B92) have more than 50% of women at the managerial and editorial positions. However, women are here represented at middle and lower management levels, but usually not as founders, CEOs or presidents of media companies. The share of women in the position of editor-in-chief in the eight media outlets with the largest share in the audience in Serbia is 13%. Although much of current politically focused news programming is anchored by women, these opportunities for participation do not always serve to empower women. This is especially true when comparing women’s participation with representation: *“an increase in participation is not necessarily reflected in expanding the types or amount of women’s representation”* (CINS, 2023b). The presence of female experts in the media was below ten percent (Cenzolovka, 2023). Public broadcasters’ informative programmes had a ratio of men to women more than three times in favour of male subjects. At private broadcasters’ news programmes this proportion was even more pronounced in favour of male interlocutors (Valic Nedeljkovic, 2023). Usually, the number of female subjects and interlocutors in the media increases when it comes to female politicians, and especially when it comes to celebrities. For women with disabilities, Roma women, women of a different sexual orientation, members of minority groups, older women, and women in the countryside, that piece of space in the media sphere is still elusive (Studio B, 2023).

The **Media literacy** indicator is scored with 57% and as a medium risk. Some general regulatory provisions are contained in three laws in the field of education and in one media law, but there is still no stand-alone strategy for media literacy development in Serbia, nor a consistent Action Plan for the implementation of such policy. Education in the areas of media and information literacy is pursued in some primary and secondary schools in Serbia and has optional character. An indicator of progress in recent years was the introduction of the elective program Language, Media and Culture in first and second grades of some gymnasiums in Serbia since the 2018/2019 school year. Until now, it has remained an elective subject, therefore not all high schools have to choose it, nor are students required to attend it. After that, an optional subject Digital World with a focus on information literacy was introduced in primary education in 2020. In the school year 2021/2022, media literacy was formally introduced to the relevant primary education Rulebook, as one of the three Extracurricular Activities, which are part of the curriculum planned by the school, and which the students may choose to attend in the fifth or sixth grade. When it comes to higher education, at very few faculties there is a subject Media Literacy, and it is usually optional. Subjects such as Communication Studies, Cultural Studies, Visual Culture, and the like, offer the opportunity to acquire knowledge about certain aspects of media literacy. Students of teaching, philosophy and philology faculties have the most chances to be trained in media literacy (although not systematically and comprehensively), while students of natural and technical sciences are almost completely deprived of this opportunity (Sigeti & Janjatovic Jovanovic, 2023). Several accredited professional seminars on media and information literacy were registered at the Institute of Education and Upbringing Improvement of the Republic of Serbia (ZUOV) in 2023. In non-formal education the subject of media literacy is present to a limited extent. There are still strong challenges regarding the education of teachers for the implementation of programs of media and information literacy; the deficiencies of official work material that would be used by teachers as educational material; the lack of evaluation of implemented programs of media and information literacy, and the lack of media literacy initiatives targeting vulnerable groups.

The indicator on **Protection against disinformation and hate speech** is marked with 74% high-risk score. The Serbian Parliament passed two media laws in 2023, but progress in this area is still limited (EC, 2023). There is still no comprehensive regulatory framework aiming to counter disinformation in Serbia, nor the laws that define the concept of disinformation in line with the European approach to countering disinformation. The existing framework against disinformation is not suitable to efficiently and non-arbitrarily limit the circulation of disinformation and hinder possible consequences of disinformation, while not presenting any risk to freedom of expression.<sup>[72]</sup> Self-regulatory acts are also incomplete in terms of adequate interpretation of the disinformation, fake news, and manipulations.<sup>[73]</sup> The consequence of this regulatory shortcoming is an inadequate and inefficient approach to limit the circulation of disinformation. The Balkan Free Media Initiative Report warned that disinformation was spreading much faster than independent fact-checkers could document; often originating *"in a false or misleading statements made by a political figure, which is then reported upon by state-affiliated media and subsequently shared on Social Media"* (EP, 2023).

According to regional reports, Serbia has the largest number of media in the Balkan region spreading disinformation about the war in Ukraine, and it is perceived as one of the countries with the strongest influence of disinformation and fake news. One of the main contributing factors to the problem of disinformation in Serbia is the country's political environment and the main political actors who use disinformation as a tool for political gain (TechSoup Global Network, 2023, p. 18). Numerous cases were registered where disinformation campaigns were used by political parties, their supporters, and biased media as an instrument to influence public opinion, to attack political and ideological opponents and to gain

wider support. CRTA's research found out that the situation in Serbian media in 2023 was characterized by information disorder with extreme propaganda and manipulation of facts. The main findings show that false, misleading, and manipulative information occupied a significant portion of news in some of the analysed media and, numerically, overpowered the news (CRTA, 2023b).<sup>[74]</sup>

The data on the frequency of disinformation viewed against the data on different sources of state financing of the media show that the media that were prominent generators of disinformation received substantial amounts of public funds. The Reporters Without Borders (RSF) urged the Serbian government to adopt the European Commission's recommendations in order to take measures to combat the dissemination of Russian disinformation (RSF, 2023b). Contrary to the state institutions, fact-checking community and local civil society have been making valuable efforts in countering disinformation.<sup>[75]</sup> However, these are just fragmented initiatives that have insufficient effect in combating disinformation, especially having in mind the inefficiency of current self-regulatory bodies, frequency of targeting investigative and critical media by public functionaries, and various forms of pressure that such media are exposed to. The struggle of fact-checkers is especially made difficult by the fact that the spread of the false news often starts from the political authorities and goes via their 'friendly' media that serve as propaganda tools.

When it comes to **the sub-indicator on hate speech**, the risk assessment is lower (63%, a medium risk-score) mostly thanks to the arranged regulatory environment,<sup>[76]</sup> but the factual situation is such that hate speech and discriminatory terminology are often used and tolerated in the media and are rarely followed up by regulatory authorities or prosecutors. Many institutions in charge of this are 'captured' so they lack determination to act in line with prescribed norms and with their responsibility. Yet, there were some occasional institutional reactions, such as in March 2023 the Commissioner for Equality reacted publicly to the statement of one mayor targeting the Roma minority, criticizing it as discriminatory (EC, 2023, p. 51), and in December 2023 she condemned the hate speech in election campaign (Radio Slobodna Evropa, 2023). Journalists and media outlets investigating politics and government activities are often targeted by the political power: *"recurrent statements by high-level officials on the daily and investigative work of journalists are preventing the creation of an environment where freedom of expression can be exercised without hindrance"* (EC, 2023, p. 42).<sup>[77]</sup> European Commission stated that *"a number of Serbian political parties and figures, including at ministerial level, continued to provide support to, and public space for, convicted war criminals. Convicted war criminals continue to spread hate speech in the public space"* (EC, 2023, p. 30). Regarding a series of protests in May 2023 when tens of thousands of Serbian citizens requested a strong action against hate speech and incitement to hate and violence in tabloid media, the UN expert assessed that Serbia had to undertake immediate and effective measures against hate speech and divisive rhetoric that incited societal violence. The actions of tabloid media that promote and augment politicians' and officials' toxic statements were listed, as well as the failures of media regulatory body (REM) to take actions against these media (N1, 2023).

## Focus on the digital environment

The **Social Inclusiveness area in the digital environment** got a significantly better assessment (62%) than in the previous Report, and slightly better than is the overall risk assessment of the Social Inclusiveness area.

The Law on Public Information and Media, as well as the Serbian Journalists' Code of Ethics, stipulate that it is the obligation of the media to edit all the content in their publications – which includes reader comments under the texts on the portals. The media outlet is obliged to track and prevent the spreading of hate speech and aggressive communication through its publications.<sup>[76]</sup> Hate speech, especially in the online sphere, is recognized as one of the important acts for the protection of journalists, through action plans of the Standing Working Group for the Journalists' Safety (SWG) and the implementation of analyses. In the online space, criminal justice protection is enforced in criminal proceedings conducted by state authorities defined by the Law on Organization and Competences of State Bodies for Combating High-Tech Crime. Also, mechanisms such as the SWG recognize hate speech as a form of attack on journalists and consider this criminal offense from the Criminal Code when determining incrimination when conducting pre-trial and investigative actions. A special prosecutor's office for high-tech crime is looking into these cases. Yet, the digital space abounds with aggressive communication, threats, and insults. Most prevalent is content writers using derogatory names for members of certain nationalities, while others libel political opponents, critics from the civil society sector, and media representatives (IREX, 2023). Hate speech on social media is subject to the particular social network's rules, and these rules vary from company to company.

Significantly bigger problem was perceived within the **sub-indicator on Protection against disinformation** in the digital media environment. Disinformation was often used online to discredit political opponents, including through the utilization of automated social media accounts (bots). Unregistered online platforms act as the most active spreaders of disinformation and are not regulated by the media legislation. Disinformation was often spread on social networks and other online editions, almost without governmental interventions to stop or limit them (IREX, 2023, p. 19). Moreover, some pro-government news sites, some of which are connected to the ruling party, engage in disinformation campaigns (Freedom House, 2023). Some inaccurate and unverified information is often published on social media by publicly influential actors and sometimes by politicians. The fight against disinformation is usually reduced to initiatives by individual media and platforms without any institutional approach. There are some independent fact-checking organisations which successfully tackle disinformation (Istinomer, Raskrikavanje, FakeNews tragac, Vojvodina Research and Analytical Center (VOICE), but their impact is limited.

## 4. Conclusions

In the reporting period, the state of media pluralism and media freedom in Serbia did not improve. On the contrary, unlike in the previous year, the area of Social Inclusiveness also fell into the high- risk zone, so medium risk in 2023 was recognized only in Fundamental Protection, while low risk was not recognized in any reference area. Even though two media laws were amended in 2023, the expected changes projected by the Media Strategy were not optimally implemented. The new Law on Public Information and Media as well as the new Law on Electronic Media foresee several positive solutions, which concern, first of all, the provisions that potentially strengthen the independence of the Regulatory Body for Electronic Media (REM), then the provisions that prescribe a more transparent process for the allocation of public funds for the co-financing of media projects, as well as those for which the official campaign ban has been extended for 30 days during the election campaign. However, certain legal provisions are not harmonized with the Media Strategy and the Directive on Audiovisual Media Services, and their impact can be very significant for the future state of media freedom in Serbia. The expert public is particularly concerned about the return of the state into media ownership because the previous experience of the Serbian media system in transition implies, in fact, a predominant state-party influence on the media market in this regulatory arrangement, which had long-term negative effects on the democratic capacity of the media and on the quality of democratic political processes in general. Finally, positive legal changes will be under the challenge of implementation in the coming period, also bearing in mind the fact that the implementation of the law was often highlighted as one of the biggest problems in the previous period. That is because „a characteristic of the media landscape in Serbia is that on paper everything often looks rather simple and clear, but in practice this is often not the case” (MOM, 2023).

Within the **Fundamental Protection area**, limited progress has been made in terms of previous recommendations. The progress mentioned by the European Commission in its report on the progress of Serbia in 2023 refers, first of all, to the adoption of a new legislative framework for the media, the implementation of which will show whether progress has been achieved in practice. However, the Report recognises that the legislative process has not been fully completed in accordance with the *acquis communautaire*. International organizations that deal with freedom of expression and freedom of the media warn of the further decline of media freedom in Serbia. Of particular concern is the fact that the practice of public targeting of critical journalists by high officials is repeated year after year. The police and the prosecutor's office, in cooperation with the Permanent Working Group for the Safety of Journalists, reacted effectively in several cases of attacks and threats. However, the murders of two journalists from more than two decades ago have not yet been solved. In several other cases, no verdicts were reached, and the annulment of the verdict for the murder of journalist Slavko Curuvija by the Court of Appeal caused concern among the public. Also of concern is the increase in the number of lawsuits against public participation (SLAPP), as well as "management silence," that is, the frequent refusal of public authorities to disclose information of public importance to investigative journalists. Therefore, Serbia should work on the better implementation of the Media Strategy measures in order to provide a better basis for exercising the freedom of expression and freedom of the media.

### *Recommendations:*

- **to the state:**
  - to implement all activities and amendments to legal acts in accordance with the solutions from the Media Strategy, as well as with other international documents with which Serbian legislation

should be harmonized;

- to ensure the transparency of the law amending processes in line with the Media Strategy;
- to consult relevant stakeholders when drafting any legislative or policy documents, i.e. that they need to be co-created in a participatory manner;
- to start amending other laws, the implementation of which was foreseen in the Action Plan for the Implementation of the Media Strategy by the end of 2022;
- to change the Law on Public Service Media in line with recommendations of the Media Strategy in order to ensure greater independence of public media broadcasters;
- to optimally harmonize the Law on Electronic Communication with articles 8 and 10 of the European Convention on Human Rights, with the aim of adequate protection of the data on electronic communication and of the increase of transparency in operators' reports;
- to amend the Criminal Code and Criminal Procedure Code so that the state could assist journalists, at least in collecting evidence and identifying the persons who threaten through social networks;
- to introduce urgently anti-SLAPP legislation and international methods to protect freedom of speech and the right to information;
- to align the legal framework for whistle-blowers protection with the new EU acquis;
- to ensure the greater protection of journalistic sources, especially having in mind possibility of introduction of biometric data collection and processing by the new Law on Internal Affairs;
- to introduce collective branch agreements by law in order to improve the social and economic position of the branch;
- to regulate better the political advertising and the election campaign in accordance with the recommendations of the ODIHR;
- to ensure the adequate responsibility of members of the Council of REM in cases of violations of the application of regulations, as well as of members of professional services;
- to create conditions for full functionality, transparency and updating of the Media Registry, as well as mechanisms for effective monitoring of the functioning of the Media Registry and the Unified Record of Media Content Producers;
- to improve the publicity of the work of the REM Council;
- to prescribe precisely the method of selection for the position of the REM director as well as its tasks and responsibilities;
- to introduce the judicial and civil control of REM's actions based on complaints from citizens and organization;
- **to the state authorities and other political agents:**
  - to condemn clearly and unequivocally each and every case of violence against journalists, in order

to achieve the appropriate environment for journalists' uninterrupted work;

- officials should refrain from labelling or making verbal attacks on journalists;
- **to the prosecutors, courts and other competent authorities:**
  - to sanction consistently all attacks on journalists, and ensure prompt legal action in practice without exemptions;
  - to use established mechanisms for the protection of journalists;
- **to the regulatory authorities and other competent authorities;**
  - to prevent and sanction hate speech and verbal attacks coming from political actors against journalists.

**The Market Plurality area** high-risk score shows that media pluralism is significantly jeopardised in digital markets, also by big commercial and owner influence over editorial content, and by high news media concentration including the online sphere. As in the previous report, we must state a permanent lack of relevant, up-to-date and reliable data on the biggest media owners' market share and players in the advertising market. Also, there was only partial data on media revenue trends in 2023. The print media that violate the journalistic code the most receive funds at tenders for co-financing media content of public interest. Also, budget funds were allocated for contents that represent the usual activity of the media or for contents that represent the so-called monitoring of the work of authorities, which is contrary to the idea of competitive co-financing, which should support additional media projects that are in the interest of the specific public they are intended for. The current practice favours media that are loyal to the ruling elite, that is, media that are owned by persons connected to the ruling parties. The new Law on Public Information and Media has introduced some positive innovations, but as it only entered into force in November 2023, we can monitor its application and respect by the authorities that announce competitions in the coming period. Our recommendations mostly remain within the last Report's frames.

#### *Recommendations:*

- **to the state:**
  - to improve antitrust and merger control rules apply to the media sector;
  - to improve safeguards to protect media pluralism and editorial independence;
  - to conduct an analysis of the media market as well as an analysis of the required media content;
  - to improve conditions for effective co-financing of media projects of public interest in accordance with new legal solutions;
  - to conduct quality analysis of supported projects and external evaluation of project implementation;
  - the legislation on the online media markets should be comprehensively improved in line with the European regulatory framework;



- the field of digital markets should be covered by law provisions which deal with the concentration in the online advertising;
- to adopt copyright legislation aligned with EU Directive 2019/790, with the aim to improve copyright protection and provide a publishers' remuneration by the digital platforms;
- **to the competent authorities and media outlets:**
  - all the data on media ownership requested by laws should be collected and made available to the public;
- **to the media outlets:**
  - considering the high risk in commercial and owners influence, to introduce internal self-regulatory or organisational safeguards that protect the editorial independence from the media owners which interests may jeopardise editorial independence, in line with the Commission Recommendation on internal safeguards for editorial independence;
- **to the Business Registers Agency (APR):**
  - the official data on financial flows and total media revenue trends and advertising market should be up to date and publicly available, in order to decrease the persistent lack of transparency regarding financial flows in the media market and thus to lower the risks for the media pluralism.

The **Political Independence area** received the highest risk assessment for media pluralism and freedom in 2023. Despite constitutional guarantees and solid legal solutions, journalists in Serbia often work in a restrictive environment, which results in self-censorship. Investigative and critical journalists are often exposed to labelling and offensive language encouraged by high-ranking members of the authorities, which are taken over by some national television stations and distributed in the form of a permanent negative campaign. Most of the media generate income from state advertising and non-transparent public subsidies, with access to both sources of funding controlled by the ruling elite. There is no adequate and effective legal protection against direct or indirect control of the media by political actors, as well as legal or self-regulatory measures aimed at ensuring the independence of editors from political influence. The authorities, political parties, and state-owned companies still use their financial power to influence editorial policies while the media lack the political or financial clout to stand up to the pressure, especially in local media markets. Serbia should implement the Media Strategy in the spirit of the original goals of the Strategy, especially with regards to measures related to the functioning, mandate, and independence of the REM, as well as to the strengthening of internal media pluralism (pluralism of content). Also, the Government must publish the draft of the Law on Public Service Media with new provisions which will enable removing the obstacles for political independence of PSM. Adequate and efficient legal provisions should be precisely prescribed regarding the process of electing PSM Managing boards and directors - as it should unfold without political pressures. To achieve a functional, sustainable and fair media market, protected from political influence, the co-financing of media by state funds should be transparent, fair, and under clear criteria. Overall, the new laws did not solve the problem of public officials' campaigns in the media.

## *Recommendations:*

- **to the state:**

- that the entire monitoring of the behaviour of the media during the election campaign by the Regulator (REM) be regulated in more detail and be harmonized with the recommendations of the observation missions;
- to prohibit official campaigning during the entire period of the election campaign by amending the law;
- to precisely prescribe the legal obligations to political actors to make transparent and regular reports on spending in their online campaigns;
- that the provisions of the Law on Electronic Media be harmonized with the AVMS Directive, such as the separation of REM from the state administration system by deleting the provisions on entrusted tasks;
- to urgently implement the Media Strategy's measures into the Law on Public Service Media to decrease the risks for media freedom, that is to ensure the greater independence of PSMs, of PSMs' bodies and their members, so they could play the role in line with the legal provisions as citizens' public service;
- that the applicant against the media service provider who violates laws and by-laws be allowed to have the status of a party in the proceedings;
- to introduce mandatory analyses of the needs for media content with the aim of determining the public interest for each special local self-government;
- that the freedom of reception and rebroadcasting is fully harmonized with the AVMS Directive.

- **to the state and media authority:**

- to determine clearer criteria for the selection of members of expert commissions and responsibility in cases of abuse, along with prescribing sanctions for illegal actions;

- **to the media outlets and self-regulatory bodies:**

- to introduce adequate self-regulatory rules that could make newsrooms more independent from the media outlets' management and ownership.

Within the **Social Inclusiveness area**, the highest risks came from the sub-indicators on Media accessibility for people with disabilities, the Representation of women in media, and Protection against disinformation. First of all, the media position of vulnerable groups should be improved. To that end, the amendments to the Law on Public Service Media foreseen in the Media Strategy should be implemented. Also, amendments to the Law should strengthen the capacity of public services to implement legal obligations regarding programs in the languages of national minorities (especially as regards Radio Television of Serbia). When it comes to disinformation threats, it is necessary to strengthen the institutional approach to combating disinformation, through encompassing support of the state to this process, that would be based upon the changes of media

regulations and executed in line with strategic goals that should be of consensual nature. The problem of hate speech and discriminatory vocabulary used in the media should be solved more efficiently, in line with legal provisions. Serbia should work on strengthening the capacity for media literacy of citizens through comprehensive strategic activities that will not focus only on the capital and large cities, but will encompass wider, rural areas, all social strata and specifically the vulnerable groups. Our recommendation in this area remains the same as in the previous Report.

*Recommendations:*

◦ **to the state:**

- to introduce new legal formulations in the Law on Electronic Media that will specify program quotas for public media and bind commercial media service providers to adapt their contents to persons with disabilities, as it was foreseen by the Media Strategy;
- to introduce law provisions guaranteeing independence and sustainability of local and community media;
- to continue the integration of media literacy into formal and non-formal educational programmes;
- to define the concept of disinformation in line with European standards and prescribe the countering of disinformation, without jeopardizing the freedom of expression.

◦ **to the state and media authority:**

- the broadcasting of programmes in minority languages needs to in line with the current legal framework;

◦ **to the competent authorities:**

- gather comprehensive, quantitative data on the local media market, regarding income of regional, local and community media, as well as research on readership, viewership or listenership;

◦ **to media outlets:**

- to improve the visibility of women in the positions of subjects and sources of media reporting, especially presence of female experts in news programs.

## 5. Notes

- [1] The previous legal framework did not provide for the collection of all the information entered into the Media Register and which was needed to achieve the goals for which the Register was established. Also, no mechanism was provided for the collected data to be up-to-date, to be networked with data maintained in other registers, and to be easily accessible and searchable by users. The clear criteria for the deletion of media from the Register were not provided, nor the effective sanctions for non-compliance with legal provisions, nor the established rules on responsibility for controlling the accuracy and up-to-dateness of data (Media Strategy, 2020, p. 14). Therefore, several provisions that were envisioned in the Media Strategy (2020) have been introduced by the new Law on Electronic Media (LEM, 2023), regarding procedures and powers of the Electronic Media Regulatory Authority (REM), defined within the chapter Supervision and Control (Articles 31-45), establishing the clearer criteria for deleting media from the Media Register and other protection measures. At the same time, the new Law on Public Information and Media (LPIM, 2023) introduces a new provision that the Registrar ex officio should delete the media from the central Media Register driven by APR (Serbian Business Registers Agency), upon deletion from the Register of Media Services maintained by the Regulatory Body for Electronic Media (REM) (Art. 49, Para. 2, item. 3). However, LPIM has failed to optimally improve this procedure, by not establishing accountability rules for performing control of data accuracy and currency, and by not providing enough clear criteria for the deletion of media from the Register. As LPIM and LEM were introduced in October 2023, the coming period will check the effectiveness of the new prescribed measures.
- [2] CRTA - Centre for Research, Transparency and Accountability.
- [3] There are no specialised defamation laws in Serbia. However, the Criminal Code provides for the criminal offences against honour and reputation prosecuted through private action. The Law on Public Information and Media (LPIM) and the Law on Contracts and Torts (LCT) allow for the injured party the right to compensation for material and non-material damage. Legal protection in these cases is regulated by the Law on Contracts and Torts, and it includes: Publication of a judgment or correction at the expense of the defendant (Art. 199); Compensation of pecuniary damages (Art. 198); Compensation of non-pecuniary damages (Art. 200).
- [4] The Law on Free Access to Information of Public Importance prescribes the limitation of the rights in its Article 8: "The rights provided for in this Law may, in exceptional circumstances, shall be subject to limitations set out in this Law, to the extent necessary in a democratic society to prevent a serious violation of an overriding interest based on the Constitution or law".
- [5] "Although the Law on Protection of Whistleblowers in many of its parts prescribes higher standards than the relevant EU Directive, the said harmonisation could be useful, according to TS opinion, especially in terms of the actions of authorities responsible for external whistleblowing and monitoring the follow-up actions on what the whistleblowers reported. The Directive expressly stipulates that its application will in no case constitute a basis for reducing the level of protection already provided by the member states, and thus not even for Serbia, if it is harmonised. However, this work should be approached with extreme caution because there is an inherent danger that once the procedure for amending the Law is initiated, the decision-makers will remove from the Law some provisions that are positive under the guise of 'harmonisation'" (Transparency Serbia, 2023, p. 5).
- [6] In 2023, Mapping Media Freedom documented more than 40 cases of media freedom violations, including verbal attacks (27), attacks to property (5), physical assaults (5), legal incidents (5), and censorship (2). Also, the Safejournalists.net registered 46 cases of different attacks on journalists and media workers and outlets in Serbia during 2023 (<https://safejournalists.net/napadi-na-novinare/?lang=sr>). The NUNS database of attacks and pressures on journalists, shows a total of 168

recorded cases in 2023, including physical attacks (6), attacks on property (2), verbal threats (4), and 118 cases of pressures (NUNS Database, 2023). Domestic journalist associations document a greater number of incidents than relevant international organizations do, because they register various forms of pressure that represent the most common type of threat to journalistic freedoms, and they have registered almost twice as many as last year (UNS, 2023).

- [7] The average net salary in September 2023 in Serbia was EUR 727, and the minimum was EUR 330 (RZS, 2023). The bad financial and economic situation has forced certain journalists to work for multiple media to be able to provide basic means of living or to do completely different jobs that are not related to the journalistic work.
- [8] There is no clear definition of freelancers, but they are recognized through specific taxation process. In Serbia, the Labour Law does not recognise freelancers, unless they pay their own contributions or are subject to flat-rate taxation.
- [9] Serbia's Interior Ministry has not responded to information requests concerning Tyshkevich's detention. The journalist's Russian passport was confiscated by the Russian authorities in 2021, when she was found guilty in a case involving support for Alexeï Navalny.
- [10] The Criminal Code recognizes that the work of journalists carries an increased risk for the safety of persons performing it (Article 112, paragraph 1, item 32). Under this Law, journalists and media professionals are put on a par with the public officers, in the context of the criminal offence of endangerment of safety. Namely, the Code specifically incriminates instances where this criminal act is committed against a person performing activities in the public information and stipulates a higher punishment for offenders if the offence is committed in connection with the jobs performed. On paper, journalists are provided with special protection in connection with two other criminal offences: Aggravated murder (Article 114, paragraph 1, item 8) and Serious bodily harm (Article 121, paragraph 6).
- [11] (1) Impunity for Murder of Journalist Milan Pantic; close to 22 years since the anniversary of the killing of Serbian journalist Milan Pantić in Serbia, no one has been prosecuted and convicted and those responsible continue to evade justice. (2) Impunity for a Series of Killings, Kidnappings and Disappearances of Journalists in Kosovo\* in 1998-2005. It has been close to twenty years since the killings, kidnappings and disappearances of 14 Serbian and Albanian journalists in Kosovo\* between 1998 and 2005 and no one was brought to justice for these crimes committed. (3) Radislava Dada Vujasinović, a Serbian journalist and reporter, was found shot dead at her parents' home in Belgrade in the early hours of 8 April 1994.
- [12] Only in February 2024, the Court of Appeals announced that it had acquitted four former members of the State Security from charges of participation in the murder of journalist Slavko Curuvija in 1999. On this occasion, the journalist associations announced that the Serbian judiciary has shown institutional weakness, and that the state is neither capable nor willing to solve the cases of murder of journalists (Cenzolovka, 2024).
- [13] The discrepancy between the reports on the number of accesses to retained data by authorized state bodies, on the one hand, and the data reported by the operators to the Commissioner, on the other hand, fuels the indications that state bodies are accessing citizens' data without authorization, thereby jeopardizing the confidentiality of journalistic sources (BIRN & SHARE, 2022, p. 5). The Public Information Development Strategy in the RS 2020-2025 (Media Strategy) detected this issue and suggested amending media legislation and legislation in the field of electronic communications in order to regulate the protection of journalists' sources, by prescribing the elements of this right; but also amendments to the criminal legislation to introduce criminal law protection of the confidentiality of journalists' sources and, by amendments to the Criminal Code, define journalists as persons who, due to the obligation of keeping professional secrets, are exempt from the duty of testifying if their

statement would violate the obligation of keeping a professional secret (Media Strategy, 2020, p. 50). The implementation of the measures foreseen by the Action Plan is anticipated in the 2nd and 4th quarter of 2021, respectively: consider amendments to the Criminal Procedure Code and the Criminal Code; amendments to the Law on Public Information and Media. The listed activities have not yet been delivered, although the new Law on Public Information and Media was adopted in 2023.

- [14] When a 13-year-old boy made a massacre in his school, killing 9 pupils and a security guard.
- [15] In 2023 the REM website did not register any issuance of prescribed measures, while in 2022 the REM issued only 2 remonstrances.
- [16] Instead of parliamentary committees, which have so far nominated a total of 3 candidates, civil society organisations will have greater representation in the nomination process. Nonetheless, only one member will be jointly nominated by the Commissioner for information of public importance and personal data protection, the Commissioner for the Protection of Equality, and the Ombudsman, who are elected by the National Assembly. Another important novelty is the prescription of stricter professional criteria for candidacy for Council member (Article 10 LEM).
- [17] The members of the next convocation will be elected for terms of different durations: 2, 4 or 6 years, which will be decided by a draw. The events of May were also the reason for the “Serbia against Violence” protests, which were taking place over several months in Belgrade during 2023. They said that they considered this body responsible for promoting violence on television, and that, due to the negligent work of the Council, REM was an institution that was not serving the purpose for which it had been founded (Stand up against violence, 2023).
- [18] It is mostly due to the CMPF-s methodological changes, including changes in the data sources.
- [19] The new Law on Electronic Communications was adopted in April 2023. This Law does not precisely define the concept of internet neutrality, but it introduced legal safeguards considering the open internet access. Its approach to internet neutrality is through the principles of regulating relations in the field of electronic communications, which guarantee the provision of possibilities for end users of public communication networks and services to have free access to and distribute information and to use applications and services of their choice (Art. 134 LEC). The rules are harmonized with the Regulation (EU) 2015/2120. However, the Law failed to provide details on the possibility of exercising the exceptions (especially when it comes to the exceptions related to the public authorities), which creates potential possibility of arbitrary treatment of the certain internet content (including blocking, filtering etc.). In addition, the Law on the Protection of Competition (LPC) prohibits the abuse of a dominant market position (Article 16 LPC).
- [20] In addition, legal experts have criticized the propositions of the new Law on Electronic Communications that deal with automatic extension of customer contracts with provider organizations and models for calculating damages in case of leaving the customer contracts, for which they claim that they are not in line with the European code on electronic communications nor with the domestic Customer Protection Law and (Efektiva, 2023). They claim that there is a legalization of the unfair practices by the Serbian operators by the new law.
- [21] Some media outlets were targets of the orchestrated campaigns of so-called “trolls” and deliberate dissemination of disinformation, or their content was intentionally reported to social media admins, which resulted in blocking or removing it” (NUNS & BIRN, 2023, p. 40).
- [22] There is a tendency to judges and prosecutors interpret an online threat narrowly — that it must be direct, serious and realisable to get prosecuted upon. In general, police and prosecution tend to treat most online threats as criminal offences prosecuted in a private lawsuit. This means that “a journalist who is threatened must find out the identity of the person who threatens him/her and only then, if he/she learns their identity, to file a criminal suit, argue his/her case... in other words, he/she does not

have any assistance from the state" (NDNV, 2023).

- [23] For the most part, the Law on Personal Data Protection (LPDP) is an adapted translation of the General Data Protection Regulation (GDPR) and the so-called Police Directive, of which the practical application in Serbia is highly questionable.
- [24] E.g. in May 2023 pro-Government tabloid 'Informer' was a guest at a pro-Government 'TV Pink', where revealed that the investigative media outlet KRIK was preparing a text with the New York Times about the connections of well-known criminal gang with higher officials of the governing party. Few days later the 'Informer' reported that the Guardian was working on a text with 'haters of Serbia from the NGOs' (BCBP, 2023, pp. 15-16).
- [25] The Register of Media Services is kept by REM, while the Central Records of Beneficial Owners is run by the BRA, just like the Media Register; but there are connected registers maintained Public Procurement Authority, State Aid Control Commission, etc.
- [26] Especially, it was not possible to collect all differentiated data on advertising, public funding, subscriptions, etc., because media authorities were not effective enough, nor were media companies non-transparent regarding their revenues.
- [27] Print and registered online media are within the purview of the Ministry. They must inform the Media Register managed by the Business Registers Agency of any change to their ownership structure (LPIM, Art. 55, para. 1). Under the Law on Electronic Media, REM is competent for the monitoring of ownership restrictions in the domain of radio and television (LEM, Art. 7). The holder of the license for the provision of media services must report to the Regulator any change in the ownership structure of the issued capital (changes of the founder or changes in the founder's participation in the capital) and the Regulator shall specify the actions according to the reported changes in ownership structure (Art. 121).
- [28] Within the joint-stock company Telekom Srbija under the MTS brand operate a mobile telephony service, cable TV operator, internet and telephony operator Supernova, sports television Arena and informative TV Euronews Serbia, among other units. On the other hand, the cable network SBB (Serbian broadband) is part of the private company (United Group), under whose auspices operate TV news channels N1 and Nova, their cable TV broadcaster – SBB, as well as daily newspaper Danas and newly established weekly Radar.
- [29] According to the official data for the third quarter of the 2023, published by the Regulatory Agency for Electronic Communications and Postal Services (RATEL), Telekom Srbija's market share was 53,2% compared to SBB's 40,5% (RATEL, 2023, p. 14).
- [30] The following obligations have been introduced: a foreign company that sells digital products/services online must register for VAT in Serbia; a foreign company has a legal obligation to hire a VAT representative as its tax representative in Serbia for VAT matters.
- [31] They do not decide whether to be freelancers or not; many journalists work under author contracts, and there are a lot of fake self-employed, who opened an entrepreneurial shop and concluded a contract on business cooperation with employers.
- [32] Moreover, financial reports for 2023 have not yet been published (February 2024). The report by the Statistical Office of the Republic of Serbia for 2023 will be published, in usual dynamics, in 2024, but this report as usual will not contain comprehensive and broken-down data per various categories in media industry, but only a cumulative data.
- [33] Unfortunately, there is no auditor agency in Serbia for circulation data, nor are there reliable, publicly available and comparable data on circulation, advertising, paid copies (print and digital), subscriptions, donations, etc.
- [34] Ministry of Information and Telecommunications carries out competitions at the national level, it is the

Provincial Secretariat for Culture, Public Information and Religious Communities Relations for the province, while at the local level it has been carried out by local self-governments.

- [35] Negative examples were: the allocation of funds using procurement of media services that are not visible to the public (due to the fact that they are mostly unjustifiably below the limit for the implementation of public procurement, so pursuant to the Law on Public Procurement there is no legal obligation to make these procedures public), and direct contracting with different media and production companies without any legal basis (PreUgovor, 2023: p. 72).
- [36] The Law prescribes that the editorial autonomy of the media shall not be jeopardised, by putting pressure, threatening or blackmailing editors, journalists or sources of information (LPIM Art. 4, Para. 3). Further, it says: "Freedom of public information shall not be infringed by abuse of office or public authority, of property and other rights, or by the influence upon and control of the resources for the printing and distribution or electronic communication networks used for the distribution of media contents" (LPIM Art. 4, Para. 5).
- [37] The Media Strategy Action Plan that envisaged the establishment of the socio-economic dialogue as to improve position of journalists were not realised within the new Law on Public Information and Media. Also, the employers in media sphere have still not formed their organization that would be a counterpart to the unions in negotiations.
- [38] "Journalists, that is editors, are professionally accountable to the public (readers/viewers/listeners), and not the publisher/owner (the state and interest groups), and their private, economic, political and other interests. A publisher / an owner has an indisputable right to earn a profit and use it as a guideline in media management. At the same time, the purpose of the media is the public interest, and ownership rights must not violate it. Business, political, and private interests of a publisher / an owner must not be an excuse or justification for violation of this Code. A publisher / an owner should not alter the editorial policy of the media at his own discretion, without the consent of the editorial board" (Serbian Journalists Ethical Code, 2015).
- [39] LPIM in Art. 37 states that media are not "platforms, such as internet forums, social networks and other platforms, allowing for a free exchange of information, ideas and opinions of their members, or any other independent electronic publication, such as blogs, web presentations and similar electronic presentations, unless they are registered in the Media Register in accordance with this Law".
- [40] Because the Press Council only occasionally monitors online media; the last time it was done during the first months of the coronavirus pandemic and was completed in September 2020.
- [41] Among the 10 most visited media sites (data for January 2023, average) were online editions of several dailies Blic, Kurir, Alo, Novosti, Danas, and digital natives Mondo, Nova.rs, Telegraf.rs, Espresso, and 24sedam.
- [42] I.e. rental of recording equipment, editing of packages, lease of billboards and banners, other visibility costs, for which these media engaged third legal parties, and even for paying phone bills.
- [43] Commission Recommendation (EU) 2022/1634 of 16 September 2022 on internal safeguards for editorial independence and ownership transparency in the media sector, C/2022/6536, OJ L 245, 22.9.2022, p. 56–65. <http://data.europa.eu/eli/reco/2022/1634/oj>
- [44] It promotes the following self-regulatory rules concerning the editorial independence from pressures: a journalist should resist any pressure against his free professional practice, as to any form of censorship; economic and political interests of the publishers must not influence the editorial policy in a way that would have for effect incorrect, unobjective, incomplete and untimely informing, etc. (Chapter II).
- [45] Private media usually do not have codes of ethics, so they should follow ethical rules regulated by the Serbian Journalists' Code of Ethics adopted by two major journalists' associations IJAS and JAS. The



Online Media Association members adhere to Online Media Association Code.

- [46] Namely, the amendments to the previous Law on Public information and Media (2016) permit ownership of another type of media or distribution through an affiliated legal entity. Thus, telecom operators have entered the media field, founding or buying cable TV stations or financing the production of media content, especially in the field of sports and entertainment.
- [47] There are still no legal provisions that comprehensively regulate the issue of conflict of interest between media owners and parties or politicians in Serbia. The Law on Electronic Media (LEM) prescribes the prohibition for political parties to hold licences for the provision of audio-visual media service (Article 91). The Law on Prevention of Corruption prescribes a prohibition for public official to, inter alia, provide “media, marketing and consulting services” (LPC, Article 50, paragraph 2). On the other hand, under the Law on Public Information and Media, the publisher of a newspaper, an independent electronic edition and the news agency service may be any natural or legal person, pursuant to Article 39.
- [48] Journalists and editors of KRIK have been sued by ministers, politicians, ex-politicians, powerful people, and businessmen who do not shy away from lawsuits even for conveying statements or presented evidence in public court hearings. The SLAPP lawsuits caused numerous reactions, and the European Commission's report specifically mentions lawsuits against independent journalists (EC, 2023, p. 26). The recent monitoring of Slavko Curuvija Foundation showed that in 3 months period there were 84 negative reflections on the independent journalist and media by the politicians, where more than 80% were coming from the ruling party officials, and the targets were mostly journalists of the media operating under the UM (N1, Danas and Nova) (Slavko Curuvija Foundation, 2023).
- [49] Prior to the elections in December 2023, RTS adopted a self-regulation rule, by which RTS obliges itself to represent all electoral candidates, following the principles of independence, equality and equity, balance, and impartiality. The RTS was also committed itself to broadcast electoral promotional under equal technical and financial conditions, without discrimination.
- [50] There were numerous issues with fabrication of citizens' signatures required for the registration of some electoral lists. A rewarder investigative journalist Jelena Zorić went public with a statement that her name, ID data were used and her fabricated signature not once but twice on a list for two different lists for Belgrade city elections (Danas, 2023). Also, in many cases, citizens received calls from a call centre affiliated with the ruling SNS and were addressed by their personal name and surname even if they were in a confidential contractual relationship with mobile operators (CRTA, 2023a, pp. 33-34). In November 2023, the Centre for Investigative Journalism of Serbia (CINS) published a report about the mentioned SNS call centre, indicating that the operators were recruited under the condition of voting for SNS, and the source of voters' data was unclear. On 5 December, president Vučić visited the call centre (ODIHR, 2023, p. 11).
- [51] Several years ago, the state provided to Pink company to reschedule its tax debts. This practice was selective, exclusive because almost no other media received such benefits, non-transparent and carried out in a dubious legal arrangement (MOM, 2024). But functionally it can be considered an indirect state subsidy.
- [52] Ministry of Information and Telecommunications carries out competitions at the national level, it is the Provincial Secretariat for Culture, Public Information and Religious Communities Relations for the province, while at the local level it has been carried out by local self-governments.
- [53] The investigations found out that some media commission members were involved with government organized non-government organizations (GONGOs).
- [54] Local media were at the mercy of project co-financing with municipalities, and local governments mainly rewarded loyal media with co-financing. In this way, project financing turned into a political tool, instead of primarily serving the public interest (ibidem).

- [55] Since they were mostly unjustifiably below the limit for the implementation of public procurement, pursuant to the Law on Public Procurement there was no legal obligation to make these procedures public. Also, non-transparent direct contracting was used, without any legal basis or adequate supervision that would justify spending money (BIRN & NUNS, 2023; PreUgovor, 2023, p. 72).
- [56] The Law is primarily focused on commercial advertising and treats state advertising equivalently to commercial.
- [57] With a delay of more than a year compared to the deadlines planned by the Media Strategy Action Plan, the Parliament adopted the new Law on Public Information and Media, which has improved rules for the distribution of direct subsidies to media outlets through project co-financing.
- [58] "Data on the amount of funds received from a company in which a public authority has a significant share in the share capital, including donations, gifts, sponsorships, market research and economic research services, public opinion polling services, campaign, advertising and marketing services, promotion services, services from the media based on the application of regulations in the field of public procurement, as well as other services provided by the media, the dinar equivalent of the free rental service provided by the public authority to the media publisher, calculated in accordance with tax regulations, public advertising and public information, as well as all other grants of funds to media publishers by these persons (Art. 47, Para. 1, item 10 of the LPIM).
- [59] It stipulates the neutrality of the right to use radio frequencies, that is, the right to use radio frequencies that are not subject to restrictions in terms of technology, as well as in terms of the types of electronic communication services provided. But the legislation on spectrum allocation is not implemented effectively.
- [60] The Regulatory Agency for Electronic Communications and Postal Services (RATEL) monitors the compliance with the LEC, mostly successfully fulfilling its tasks. However, according to the Law, RATEL monitors the radio-frequency spectrum allocated for distribution and broadcasting of media content in cooperation with the relevant broadcasting regulatory authority (Art. 115 of LEC), and it is the Regulatory Authority for Electronic Media (REM). The Law on Electronic Media (LEM) prescribes provisions regarding procedures and powers of the REM, defined within the chapter of Supervision and control (Articles 31-45). The sanction instruments available to REM under the Law are graded from the mildest ones – such as the issuance of notice, warning, and temporary prohibition of broadcasting program contents, to the most rigorous – revocation of license due to breach of obligations related to program content. On the contrary to the Law provisions, it seems that REM rewarded the broadcasters that did not comply with the legal obligations. For example, at the end of July 2022, REM decided to grant four television licenses for national coverage to the same television stations for another 8 years: Pink, Prva, Happy and B92 - media all supportive of the ruling Serbian Progressive Party. Fourteen television stations participated in the public competition, while 7 radio stations applied for four national radio frequencies. The Coalition for Media Freedom responded by issuing a statement in which it noted that licenses were once again granted to television stations that did not meet the necessary requirements and had spent years violating laws, by-laws, and the Code of Journalists of Serbia (PrEUgovor, 2022, p. 80).
- [61] For example, in Article 17 and 25 of LPSM, the qualification "prominent expert" is prescribed, while the Law itself does not define this concept more precisely and allows for arbitrary interpretations.
- [62] The Law on temporary regulation of the manner of charging the fee for public broadcasters initially envisages that RTS and RTV are partly financed from the fee, and partly from the budget from 1 January 2016 to 31 December 2021, and this model of support is provided for RTV in 2022, 2023 and 2024, which temporarily extended the regulation of the manner of financing the basic activity of RTV. The amendment was made in order to eliminate the dangers that could jeopardize the work of RTV as a public broadcaster and the performance of its basic activities (Djuric, 2022, p. 13). In October 2023,

the Government of Serbia adopted amendments to the Law on the Financing of Public Media Services, i.e. extended that RTS and RTV be financed also partly from the budget until the end of 2024, in addition to taxes.

[63] As it was a praxis for three last years in a row.

[64] During legislative changes the concept of “preliminary reports” has not been changed, so a chance was missed to improve the reporting on campaign expenses so that the expenditure on social network advertising, that is ever bigger, is separately listed.

[65] On the contrary, X (ex-Twitter) maintains a list of only few countries where it allows certain kinds of political ads, and Serbia is not on that list. TikTok generally prohibits all political ads on its platform. Even though formal political campaigns are not allowed on TikTok and X (ex-Twitter), it was established that content creators easily bypass this limitation on paid political ads.

[66] Among the most important changes is the condition that every ad must contain data on the potential customer, that is about the personal profile or the page that is paying for the ad. Besides, it is possible to see how the ad has been received, and who has seen it, with demographic details on the gender, age and territorial distribution of the users who have seen it (SHARE, 2022, p. 26).

[67] "Regarding paid advertisements on social networks, the largest spenders were SNS and Narodna; however, the spending of most parties combined was surpassed by that of President Vučić" (ODIHR, 2023, pp. 11-12).

[68] They were Milica Đurđević Stamenkovski - Boško Obradović – National Gathering (1,412,000.00 dinars); Union of Vojvodina Hungarians (2,284,800.00) and Socialist Party of Serbia (15,928,366.00). There were 18 election lists in total.

[69] During 2023, more than half of the money went to media that, according to the findings of the Press Council, continuously violate the journalist code or, according to REM reports, do not fulfil the legal obligations of the national TV broadcaster.

[70] Regarding the exclusive indirect subsidies, the community media are exempted from the payment of media service fee, as prescribed by Art. 50 of the LEM; also, there benefits for electronic media of the civil sector that are related to the usage of copyright and authorship items.

[71] Individually, the share of women in the RTS board of directors is 11%, and in RTV it is 22%.

[72] There are several laws that address this issue only indirectly, through general provisions that require media to report truthfully, objectively and in a timely manner (Art. 5, of LPIM; Art. 61 of LEM). Transmission of fake news is sanctioned under the Criminal Code which defines the criminal offence of causing panic and disorder (Article 343 of CC). However, the Criminal Code does not define fake news, but it is understood that it is news that does not correspond to the facts.

[73] Serbian Journalists' Code of Ethics prescribes that "A journalist is obliged to report on the events of public interest accurately, objectively, comprehensively and in a timely fashion, while respecting the public's right to know the truth and respecting the basic standards of the journalistic profession" (Art. 1 of the Chapter I). The entire first section of the Code refers to the authenticity of reporting and in Section V “Journalists’ Attention”, it is emphasized that keeping secret the facts that might significantly affect the public perception of an event is equal to their deliberate distortion or lying (item 3).

[74] The research distinguishes between two groups of creators of disinformation – sources (officials, politicians, experts, etc.) who make claims that contain disinformation, and journalists who either fail to validate these claims or who create disinformation on their own, as creators and not just distributors.

[75] Fact-checking organisations transparently list their founders and the sources of finances, financial reports, and they renounce the influence of donors on the content of their portals. There are some initiatives of limited extent to monitor disinformation and to conduct research on disinformation in Serbia. They are contained mostly within the projects implemented by think-tanks and investigative

organizations of non-governmental sector.

- [76] The provisions of the Constitution of the Republic of Serbia of certain laws (Law on Prohibition of Discrimination, Law on Public information and media, Criminal Code) provide guarantees for protection against hate speech and do not restrict or harm freedom of expression. The Government of Serbia adopted the Strategy for Prevention and Protection from Discrimination 2022-2030, that also contains measures designed to combat hate speech.
- [77] The following cases explain that. The SNS described the local web portal Info-Vranjske as 'terrorist' and 'treasonous'. In another instance, Nebojša Bakarec, Member of Parliament from the SNS, publicly said that N1 and Nova S, amongst other media outlets belonging to the United Media groups, were responsible for 'the sick atmosphere in society that is conducive to tragedies', by spreading 'hatred, violence, stereotypes, and prejudices'.
- [78] The special Online Media Code of Ethics provides additional recommendations related to work in an online newsroom, which refer to fact checking (Chapter Two), accuracy of information (Chapter Three) and moderation of user-generated content (Chapter Four), with detailed guidelines for the preparation of internal rules of posting user-generated content and principles on which the list of prohibited conducts should be based.

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## ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2024 CT Leader
<i>Irina</i>	<i>Milutinovic</i>	<i>Senior Research Associate</i>	<i>Institute of European Studies</i>	X

## 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>Gordana</i>	<i>Novaković</i>	<i>General Secretary</i>	<i>Press Council</i>
<i>Tamara</i>	<i>Filipović</i>	<i>General Secretary</i>	<i>Independent Journalists' Association of Serbia (NUNS)</i>
<i>Stevan</i>	<i>Ristić</i>	<i>Director; President of the Board of Directors</i>	<i>Newspaper company "Vreme"; Media Association (ASMEDI)</i>
<i>Aleksandra</i>	<i>Krstić</i>	<i>Associate Professor</i>	<i>Faculty of Political Sciences, Belgrade University</i>
<i>Nevena</i>	<i>Krivokapić Martinović</i>	<i>Lawyer, Legal Researcher</i>	<i>SHARE Foundation, Association of Online Media (AOM)</i>
<i>Saša</i>	<i>Mirković</i>	<i>Project Manager, Lecturer</i>	<i>ANEM (Association of Independent Electronic Media)</i>
<i>Miloš</i>	<i>Stojković</i>	<i>Lawyer</i>	<i>Attorney At Law Law Office</i>

**Research Project Report**

Issue -

June 2024

doi:10.2870/961982

ISBN:978-92-9466-589-8

QM-05-24-464-EN-N



Publications Office  
of the European Union

