

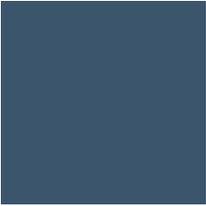


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Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2017 in the European Union, FYROM, Serbia & Turkey

Country Report: Belgium

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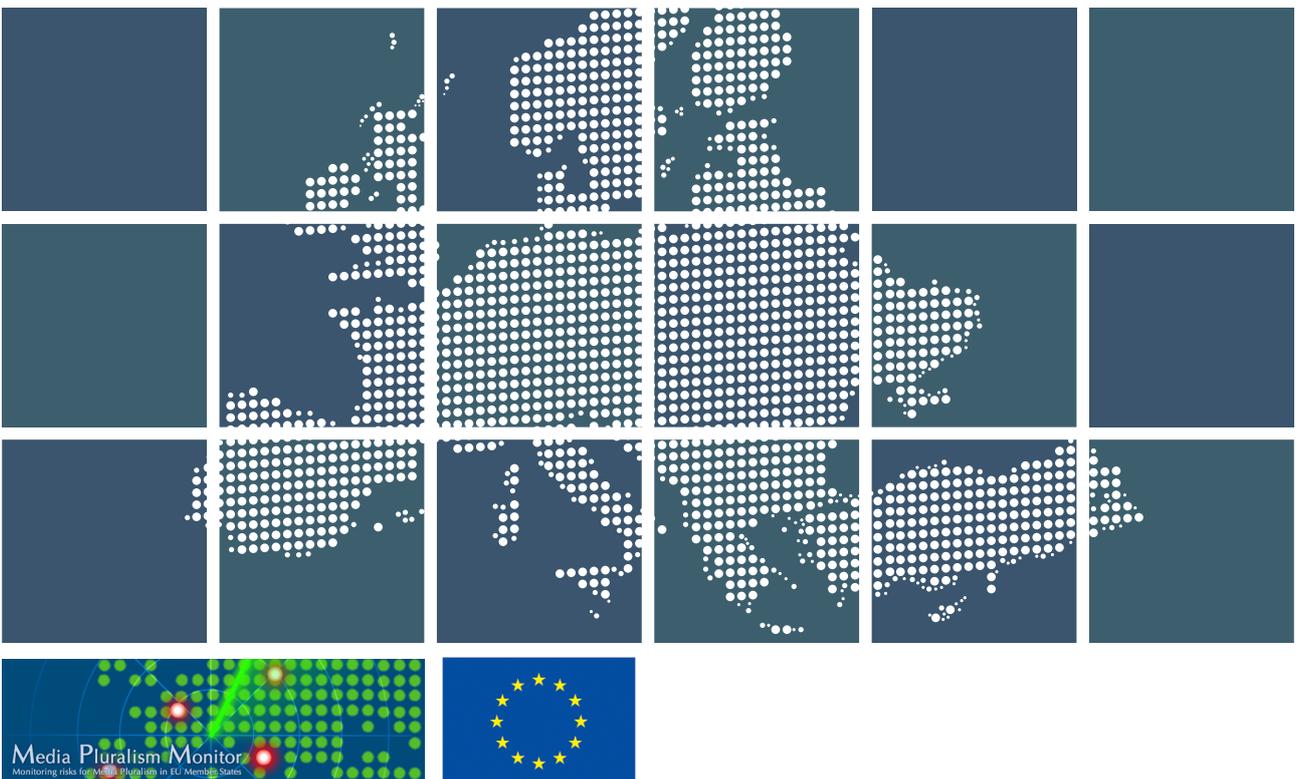




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1. ABOUT THE PROJECT

1.1 OVERVIEW OF THE PROJECT

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second EU-wide implementation of the MPM, carried out in 2017. The implementation was conducted in 28 EU Member States, Serbia, Former Yugoslav Republic of Macedonia (FYRoM) and Turkey with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

1.2 METHODOLOGICAL NOTE

The CMPF cooperated with experienced, independent national researchers to carry out the data collection and to author the narrative reports, except in the cases of Malta and Italy where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. The data collection was carried out between June and December 2017.

In Belgium, the CMPF partnered with **Peggy Valcke, Ingrid Lambrecht, Nadia Feci** (KU Leuven), who conducted the data collection and annotated the variables in the questionnaire and interviewed relevant experts. The scores assessing the risks for media pluralism were provided by the CMPF and calculated according to the algorithm developed by the Centre itself. The national report was reviewed by 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).

Risks to media pluralism are examined in four main thematic areas, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic 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 Figure 1 below).

Basic Protection	Market Plurality	Political Independence	Social Inclusiveness
Protection of freedom of expression	Transparency of media ownership	Political control over media outlets	Access to media for minorities
Protection of right to information	Media ownership concentration (horizontal)	Editorial autonomy	Access to media for local/regional communities and for community media
Journalistic profession, standards and protection	Cross-media concentration of ownership and competition enforcement	Media and democratic electoral process	Access to media for people with disabilities
Independence and effectiveness of the media authority	Commercial & owner influence over editorial content	State regulation of resources and support to media sector	Access to media for women
Universal reach of traditional media and access to the Internet	Media viability	Independence of PSM governance and funding	Media literacy

The results for each domain and indicator are presented on a scale from 0 to 100%. Scores between 0 and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk. On the level of indicators, scores of 0 were rated 3% and scores of 100 were rated 97% by default, to avoid an assessment of total absence or certainty of risk. For more information on MPM methodology, see the CMPF report “Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2016 in EU-28, Montenegro and Turkey”, <http://cadmus.eui.eu/handle/1814/46786>

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, the MPM2017 scores may not be fully comparable with MPM2016 ones. For more details, see the CMPF report on MPM2017, soon available on <http://cmpf.eui.eu/media-pluralism-monitor/>



2. INTRODUCTION

Despite being a small country with 11,4 million inhabitants, Belgium has three linguistic Communities: Flemish, French and German-Speaking.¹ During the successive state reforms (which started in 1970) the Community authorities were given more powers to regulate the radio and television broadcasting markets. As a consequence, each Community has its own (audiovisual) media law and a separate media regulator (with sometimes varying tasks and competences). For example, the regulator of the French Community, the Conseil Supérieur de l'Audiovisuel (CSA), is authorised to monitor concentration indices and take regulatory action if it concludes that the media market in the French Community is becoming too concentrated, whereas the Vlaamse Regulator voor de Media (VRM) of the Flemish Community only has the power to 'map' media concentration and publish annual reports about the state of media markets.² Additionally, this state reform has led the Communities to refrain from clearly defining and recognizing certain minorities by law. French and Dutch native speakers form a minority in some parts of the country but not in others, so that none may truly be considered a minority. The exception would be the German speaking population in Belgium, consisting of approximately 76.000 citizens.

This linguistic diversity has resulted in the economic reality of supporting two separate media markets: certain media companies concentrate on the north of Belgium with its predominantly Flemish speaking population, whereas other companies address the predominantly French-speaking population in the south of Belgium.³ This widely accepted division of the media markets⁴ results in small media markets compared to neighbouring countries like France, Germany or the Netherlands.⁵

Moreover, the increased autonomy of regional authorities explains the need to assess the indicators of the Media Pluralism Monitor for both markets separately for those aspects which fall under the competences of the linguistic Communities (e.g. adopt legislation on radio and television broadcasting, decide on subsidies for the press, etc.). Nevertheless, the reader should understand that, the Belgian population has access to all media outlets provided in both languages irrespective of location.⁶

The Belgian public also has access to a broad range of foreign media outlets, both print publications and audiovisual media which are available via cable, satellite and via the internet. Especially in the French-speaking part of the country, TV channels from neighbouring countries are very popular. Similarly, the German-speaking population mostly watches audiovisual content from Germany (including terrestrial). In addition, online media consumption is on the rise, broadening access to a variety of offerings from international media players.⁷

1 The Communities mainly have powers in the domains of culture (theatre, libraries, audiovisual media, etc.) education, health care, social welfare and protection of youth.

2 Article 7 French Community Coordinated Act on Audiovisual Media; Article 218, §2, 8° Flemish Act on Radio and Television Broadcasting.

3 No separate market for German-speaking media has been assessed, given the small scale of it. This was decided by the research team already during the previous implementation round, in consultation with the stakeholders and the Medienrat (the media regulator of the German-speaking Community in Belgium). In 2014, Mr. Yves Derwahl of the Medienrat confirmed that the German-speaking population mostly watches television channels from Germany and has access to a wide range of media outlets operating in the Flemish and French Community. Only three local media providers are active in the German-speaking Community, solely offering radio services (BRF, Offener Kanal Ostbelgien and Private Sender). This situation has not changed.

4 Valcke, P., Groebel, J. and Bittner, M. (2016). "Media Ownership and Concentration in Belgium", in Noam, E. (ed.), *Who Owns the World's Media? Media Concentration around the World*, Oxford University Press.

5 For more information, see Valcke, P., Picard, R., Sükösd, M., Sanders J. et al, *Independent study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach*, European Commission, 2009, Volume 2: User Guide, 358 et seq.

6 The media policy of the bilingual region Brussels-capital falls within the competences of both the Flemish and French Community. Media consumption in that region has been considered in assessing both markets.

7 For more information about online news consumption in Belgium see: RISJ Digital Report 2017, p. 58 – 59, accessible at https://reutersinstitute.politics.ox.ac.uk/sites/default/files/Digital%20News%20Report%202017%20web_0.pdf (16.04.2018)



3. RESULTS FROM THE DATA COLLECTION: ASSESSMENT OF THE RISKS TO MEDIA PLURALISM

This report offers the results of a detailed measurement of media pluralism in Belgium, grouped into four risk areas: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. It confirms Belgium's good position as 9th on the World Press Freedom Index. When it comes to fundamental protections of press and media, Belgium scores particularly well. Any irregularities are mostly practical issues preventing journalists from fulfilling their role as 'watchdogs of society' to the fullest. Arbitrariness in accessing public information, job insecurity and the threat of criminal defamation sanctions provide some examples. Two recent cases of intimidation of journalists were swiftly corrected by the justice system.

The economic situation of Belgium's media markets is a more complex story. With three different language communities, markets are very small and media actors very concentrated. Recent years have witnessed a growing consolidation between media actors (within and across sectors). Belgium has focused its energy on maximum transparency to help mitigate the risks of such concentrations.

On paper, Belgium benefits from a variety of guarantees to preserve independence of the press, from both political and commercial influencers. For Flanders, experts in the field have pointed out however, that these 'paper guarantees' do not always unequivocally apply in practice. Influential links such as these are often subtle and difficult to prove, but not necessarily problematic.⁸

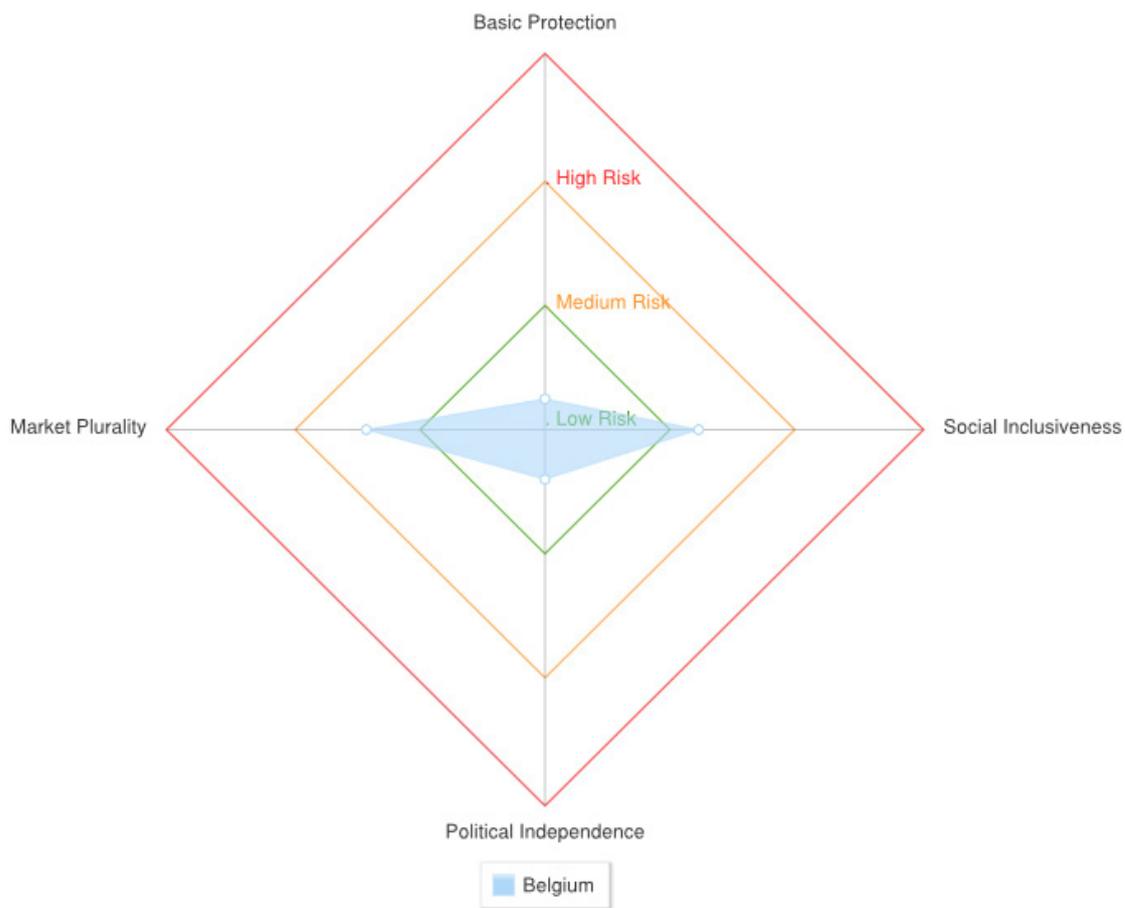
Finally, regarding social inclusion, the fragmentation of Belgium's media landscape is at the core of Belgium's challenges. With three different communities sharing powers over media affairs, attempts to guarantee inclusion of minorities has proven difficult. Nevertheless, countless efforts are made on both national and regional policy levels to overcome this obstacle.

Belgium's media pluralism map does not paint a consistently rosy picture because of several hurdles resulting from the limited size of media markets, policy fragmentation and some gaps between legal theory and practice. In summary, Belgium scores an exceptionally low risk in the areas of basic protections and media independence; where the areas of market plurality and social inclusion present a medium risk. The overall conclusion of the report is therefore positive, with room for improvement.

⁸ De Keyser J., Journalistieke autonomie in Vlaanderen: onderzoeksrapport in opdracht van het Kabinet van de Vlaamse minister van innovatie, overheidsinvesteringen, media en armoedebestrijding, Gent, Steunpunt Media, Octobre 2012, accessible at: <https://biblio.ugent.be/publication/3039856/file/3039872.pdf> (16.04.2018)

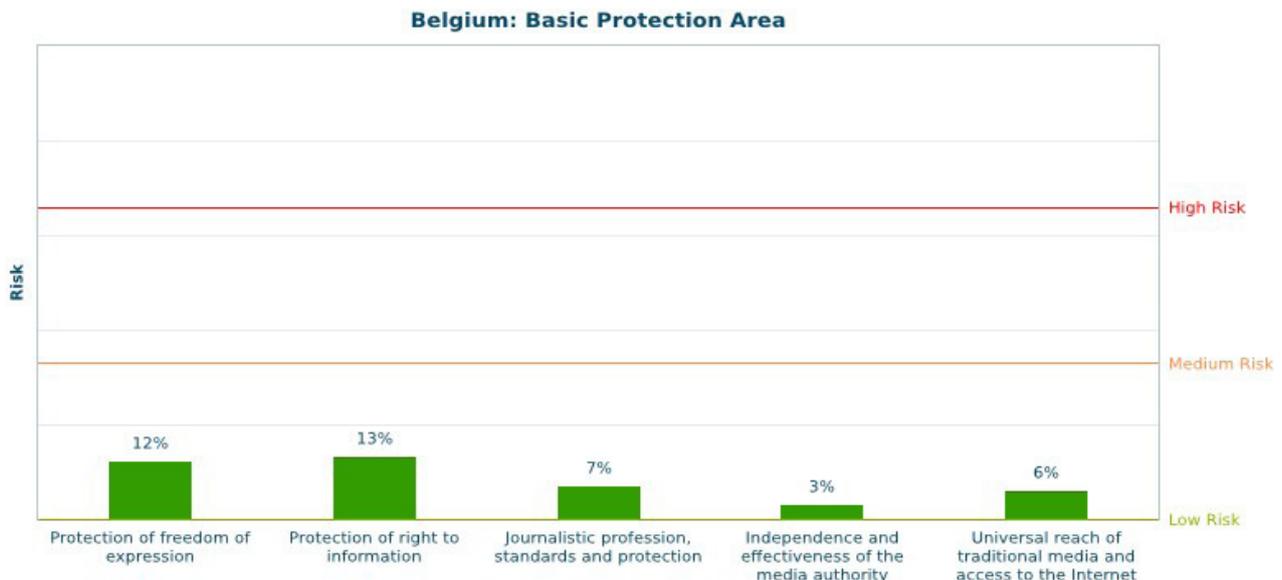


Belgium: Media Pluralism Risk Areas



3.1 BASIC PROTECTION (8% - LOW RISK)

The Basic 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 competence to regulate the media sector; and the reach of traditional media and access to the Internet.



Belgium scores positively on basic protections, which is reflected in its position as number 9 in the 2017 World Press Freedom Index. Belgium's strengths come from a strong recognition of fundamental rights and from its protection of the journalistic profession. However, some points still leave room for improvement.

The indicator on Protection of freedom of expression scores a low risk (12%). In the protection of freedom of expression indicator, Belgium maintains a medium risk score for one variable because of the continued criminalization of defamation⁹. In practice however, public prosecutors will only rarely (if never) use criminal defamation law due to the difficulties and costs of a trial by jury (Court of Assize), which is mandated for press offenses by Article 150 of the Belgian Constitution.¹⁰ Such violations are thus traditionally adjudicated in civil courts for claims of personal damage or filed with the self-regulatory Council for Journalism. Nevertheless, the possibility of criminalization remains present.

In regards to filtering, blocking and removing by ISPs, the Belgian Internet Service Provider Association (ISPA) has adopted a Code of Conduct;¹¹ there is Belgian case law clarifying that ISPs cannot be expected to, or be held accountable for, a priori and generally filtering out and consecutively removing of content that is presumed to be illegal or harmful, due to the disproportionality of such a demand in light of fundamental rights;¹² and, finally, we found no evidence of arbitrary filtering.

The indicator on Protection of right to information scores a low risk (13%). A minor risk was detected in relation to the indicator on protection of the right to information. The risk arises from problems in practice including

⁹ Articles 443 to 452 of the penal code, punishable by imprisonment.

¹⁰ Since the Second World War, the public prosecutor has only on three occasions brought a case before the Court of Assize. In these three cases, the Court of Assize has not yet convicted anyone on the basis of article 150 of the Constitution. Regardless of any future convictions, the extension of the definition of press offences to online publications by the Belgian Court of Cassation in 2012 can be considered a broadening of the de facto de-penalization.

¹¹ For an overview of these remedies, please read the Code of Conduct by the Belgian Internet Service Provider Association (ISPA) at: <http://www.ispa.be/code-conduct-nl/> (03.03.2017)

¹² For example: the Pirate Bay case of the Antwerp Court of Commerce. For more information on this case, read: Antwerp (1st ch.) n° 2010/AR/2541, 26 September 2011, AM 2012, liv. 2-3, 216. Other relevant Belgian case law on this matter includes the notorious SABAM cases (CJEU, 24 November 2011, Scarlet v SABAM, C-70/10 and CJEU, 16 February 2012, SABAM v. Netlog, C-360/10), as well as the eBay case (Comm. Court Brussels (7th Ch.), 31 July 2008, Revue du Droit des Technologies de l'Information, 2008, n°33, p. 521 et s.



arbitrariness and misused appeal mechanisms.¹³ In the Brussels region this has led to a public call for better regulation¹⁴, currently debated in the Brussels regional parliament as per July 2017.¹⁵

The indicator on Journalistic profession, standards and protection scores a low risk (7%). For the indicator on journalistic profession, standards and protection, data showed that Belgium scores a low risk relating to access to the profession, but in practice there appear to be obstacles relating to job insecurity. Journalism students have an average of 12% chance of finding a journalistic position within the first year after graduation. Lastly, although cases of attacks or threats to the physical safety of journalists in Belgium are generally rare,¹⁶ this criterion was assessed as medium risk. During 2017, there have been attempts to chill press freedom by compelling two journalists – working for the Flemish public TV (VRT) and the daily newspaper ‘Het Laatste Nieuws’ – to violate the confidentiality of their sources. The cases were swiftly corrected by the justice system.¹⁷

The indicator on Independence and effectiveness of the media authority scores a low risk (3%). The indicator on the effectiveness and independence of the different media authorities in Belgium shows a mere 3% risk due to the existence of regulatory safeguards. First, because Belgium upholds formal independence guarantees as being a member in the Authority is generally incompatible with a position in the Government or with having interests in a media or advertising company. Second, because the selection of experts is based on objective criteria. Third, because only a court can overturn a decision made by the Authority, providing transparency and accountability within the decision-making process. According to the AVMS Radar study reviewing the Regulatory Bodies’ Independence, Belgian stakeholders agreed that the regulatory bodies were sufficiently independent to accomplish their tasks.¹⁸

The indicator on Universal reach of traditional media and access to the Internet scores a low risk (6%). For the indicator on universal reach of traditional media and access to the internet (including net neutrality), Belgium obtained a score of low risk. A specific concern is the high level of concentration on the market for internet access. Nevertheless, the Belgian Institute for Postal Services and Telecommunications (BIPT) analysed the zero-rating practices of one of the largest ISP’s in Belgium, Proximus, in light of net neutrality rules¹⁹. The BIPT found no discriminatory practices between applications, nor any other elements that may inhibit free internet consumption by their users.²⁰

13 Article 32 of the Belgian Constitution not only grants citizens the right, in principle, to access government-held information, but also entails a duty for the government to organize itself in such a way that administrative documents can be made easily available

14 A non-profit active in enabling access to government-held information brought the issue to the fore under the name “the Brussels papers”: <https://www.vrt.be/vrtnws/nl/2017/12/06/brusselse-gemeenten-weigeren-jarenlang-mandaten-en-vergoedingen/>

15 Latest parliamentary resolution adopted on December 1, 2017: <http://weblex.irisnet.be/data/crb/doc/2017-18/133637/images.pdf>

16 Freedom House, Freedom of the Press 2017, <https://freedomhouse.org/report/freedom-world/2017/belgium>

17 These facts are also considered in our exceptional score (95/100) by the Freedom House, Freedom of the Press 2017, <https://freedomhouse.org/report/freedom-world/2017/belgium>.

18 For more information on the functioning of these authorities, please read: Study on "Indicators for independence and efficient functioning of audiovisual media services regulatory bodies for the purpose of enforcing the rules in the AVMS Directive" – INDIREG, p. 98-100, accessible at: <https://ec.europa.eu/digital-single-market/en/news/study-indicators-independence-and-efficient-functioning-audiovisual-media-services-regulatory-0> (16.04.2018) and in a similar context “A study on Audiovisual Media Services - Review of Regulatory Bodies Independence” by the EU AVMS Radar, available at: <https://ec.europa.eu/digital-single-market/news/study-audiovisual-media-services> (16.04.2018)

19 Regulation 2015/2120 of 25 November 2015 laying down measures concerning open internet access has entered into force in Belgium as of 30 April 2016

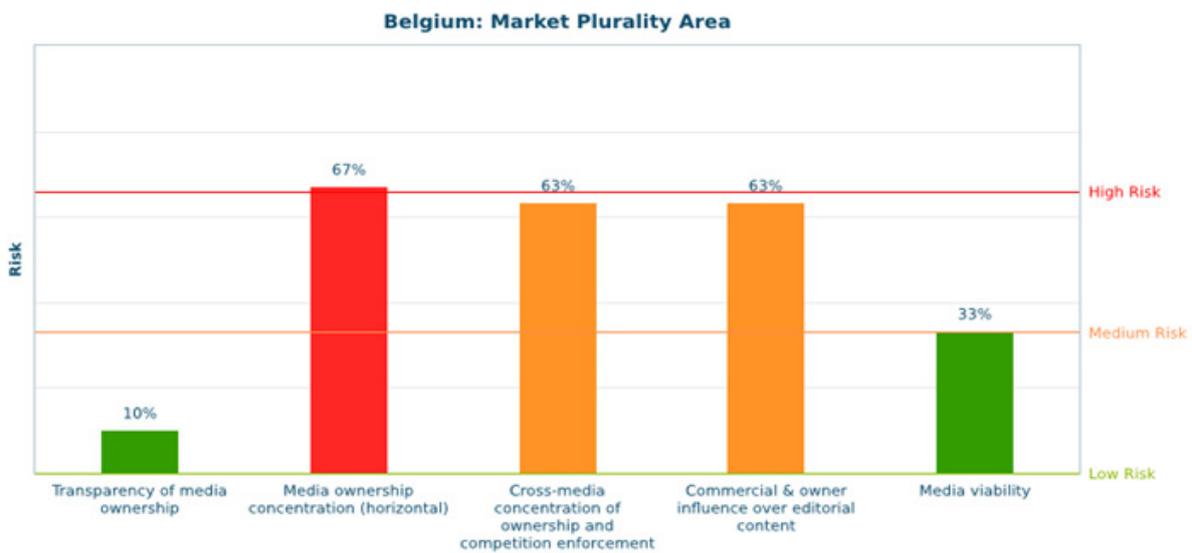
20 “Mededeling van de Raad van het BIPT van 13 februari 2017 met betrekking tot een overkoepelende analyse aangaande de postale behoeften in België”, accessible at: <http://www.bipt.be/nl/operatoren/post/universele-en-niet-universele-postdiensten/mededeling-van-de-raad-van-het-bipt-van-13-februari-2017-met-betrekking-tot-een-overkoepelende-analyse-aangaande-de-postale-behoeften-in-belgie> (16.04.2018).



3.2 MARKET PLURALITY (47% - MEDIUM RISK)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the existence and effectiveness of regulatory safeguards to prevent horizontal and cross-media concentration of ownership and the role of competition enforcement and State aid control in protecting media pluralism. Moreover, they seek to evaluate the viability of the media market under examination as well as whether and if so, to what extent commercial forces, including media owners and advertisers, influence editorial decision-making.

Compared to previous reports, Belgium has made both improvements and downturns. Nuance is needed regarding



the high risks for media ownership concentration, because of the limited size of the market and considering Belgium's well developed regulation on ownership transparency. The high risk numbers in this domain were somewhat mitigated thanks to a positive evaluation of Belgium's strong and effective rules on transparency and merger control, including remedies that can be imposed by regulatory authorities.

The indicator on Transparency of media ownership scores a low risk (10%). The risks presented below by high market concentrations are somewhat mitigated by transparency obligations imposed on media companies, mainly vis-à-vis the regulators who publish annual reports (in the case of the VRM in Flanders) or dynamic online databases (in the case of the CSA in the French Community) to inform the general public about the level of media concentration and ownership structures of media companies.²¹

The indicator on Media ownership concentration (horizontal) scores a high risk (67%). As previously mentioned, indicators have been assessed on a regional level (for the Flemish speaking market and the French speaking market), which often resulted in high risk assessments due to their limited size. Only a handful of companies own all media outlets on the Flemish and French markets. In Flanders there are only two newspaper groups: De Persgroep and Mediahuis. Three media companies also control the French speaking newspaper market: Groupe Corelio, Groupe Rossel and Groupe IPM. The market share of the Top4 newspaper owners hence amounts to 100%. Concentration reaches similar high levels in the radio and TV markets, resulting in very high concentration indexes and, hence, showing high risks for the Flemish and French speaking markets. Nevertheless, due to language overlaps with our neighbouring countries, it needs to be borne in mind that France, Germany and Netherlands based (terrestrial or digital) media carry significant importance within the Belgian media landscape.²²

The indicator on Cross-media concentration of ownership and competition enforcement scores a medium risk (63%). A second factor is the general lack of sector-specific anti-concentration rules. Apart from some restrictions on the accumulation of radio or TV licenses, the regional media laws do not contain specific thresholds or procedures for

21 For more information on this database, please visit: <http://www.csa.be/pluralisme/>.

22 See by example the market share of French native media actors on: <http://www.csa.be/pluralisme/audience/secteur/1> (03.03.2017).



(cross) media mergers, mainly caused by the division of powers in Belgium between the federal state and communities. The French Community legislator has since 2003 entrusted its media regulator, the CSA, with the power to assess the existence of “significant positions” on a market, and act where appropriate, but this system is rarely applied.

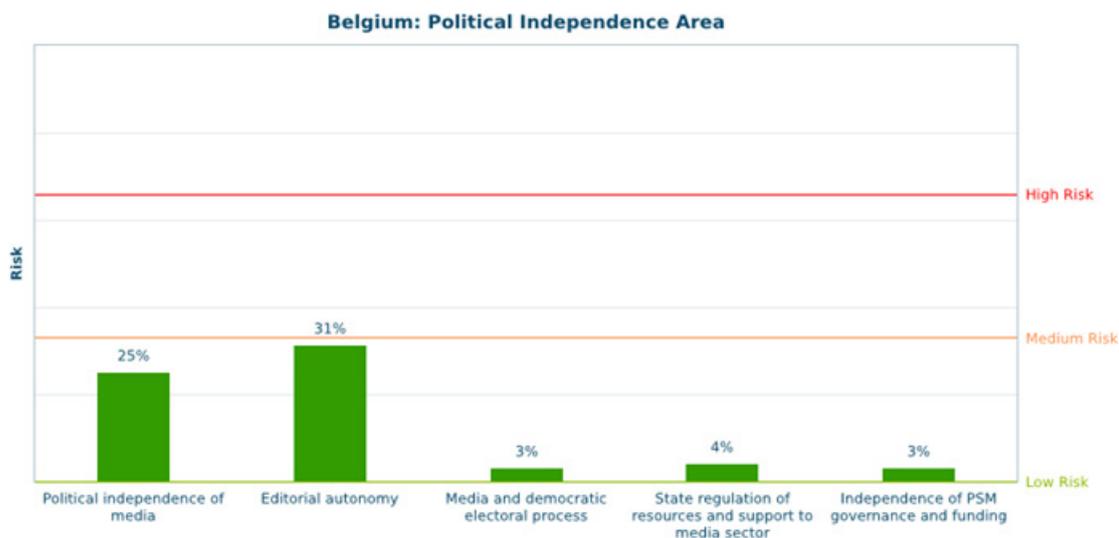
General merger control rules, from the federal Code of Economic Law, also apply to the media sector. In some cases, the federal competition authority attaches conditions to the approval of a merger with the goal of ensuring diversity of media content offers.

In sum, there is a high level of ownership concentration in the Flemish Community in the television, radio, newspaper and internet market. For the French speaking Community, the level of concentration is even higher. The evolution of increasing concentration is still ongoing as recently Telenet (the largest ISP in Belgium) has fully acquired SBS Belgium, giving it control over a full market value chain, from content creation to network distribution. Additionally, De Persgroep is now the sole owner of Mediaaan by acquiring co-shareholder Roularta Media Group’s shares. Roularta, in turn, bought half of De Persgroep’s shares in Mediafin, co-owned with Groupe Rossel.

The indicator on Market viability scores a low risk (33%). However, in order to maintain the economic viability of the Belgian media companies a high level of concentration seems inevitable. When the acquisition of Mediaaan by De Persgroep was agreed to by the Belgian Competition Authority, it accounted for potential competitive harm done to the advertising space in printed magazines. It is however in the print sector, both magazines and newspaper, that the most significant drop in revenue and readership occurred compared to previous statistics, even when factoring in digital readership.²³ Media organizations are thus exploring alternative sources of revenues, such as crowdfunding and donations, e-shops and online platforms²⁴, but in general most organizations still rely on traditional revenue streams from subscriptions and advertising.

3.3 POLITICAL INDEPENDENCE (13% - LOW RISK)

The Political Independence indicators assess the existence and effectiveness of regulatory safeguards against political bias and control over the media outlets, news agencies and distribution networks. They are also concerned with the existence and effectiveness of self-regulation in ensuring editorial independence. Moreover, they seek to evaluate the influence of the State (and, more generally, of political power) over the functioning of the media market and the independence of public service media.



23 VRM, Report on Media Concentration 2015, figures 56-59, more recent numbers can be found in figures 67 and 68 of the 2016 Report

24 Respectively: Médor, Dewereldmorgen.be, Mediahuis and Mediaaan.



The indicator on Political independence of media scores low risk (25%). Results show low risks for the political independence area, but two indicators scored a close-to-medium risk: political independence of media, and editorial autonomy. This can be explained by the fact that legal safeguards for political independence only exist for the broadcasting sector (radio and television), in contrast to newspapers and media distribution (leaving aside the general constitutional protection of freedom of expression and press freedoms, and self-regulatory codes of ethics for journalists). Variables on legal limitations to direct and indirect control of newspapers by party, partisan group or politicians had therefore to be answered negatively, as newspapers have no legal obligation to put in place an editorial statute; instead there is a traditional informal system in place. Furthermore, news agencies and media distribution networks also do not have a legal obligation to ensure political independence, but experts agreed that, in practice, the overall risk of political interference is low. However, some indicated that there is a subtle link between politics and media ownership, mostly situated in relation to those media organisations that (at least partially) depend on governmental finances and/or support.²⁵ They also indicated that these links are very difficult to prove.

The indicator on Editorial autonomy scores low risk (31%). For the indicator on editorial autonomy, it is to be noted that there are no regulatory safeguards to guarantee autonomy when appointing and dismissing editors-in-chief. In practice, stakeholders have, on the one hand, reported no cases in which a certain appointment or dismissal was considered politically influenced, but on the other hand, have agreed that there is a lack of hard evidence regarding genuine independence from political influences in editorial content.

The indicator on Media and democratic electoral process again shows a low risk (3%). For the Flemish Community this can be explained by the existence of legal (besides ethical) rules on impartiality and fair political representation on PSM and commercial broadcasters, and evidence of effective implementation of those rules. The French speaking community has similar rules provided in a charter written by the French Community media regulator and by their management contract with the RTBF. Politicians in both language communities have equal access to the media regulator in case of bias and/or unfair representation. A number of such complaints were brought before the Flemish Media Regulator, who only once decided there was undue bias towards specific politicians.²⁶ Paid political advertising is allowed and regulated by the media laws of the communities.

The indicator on State regulation of resources and support to media sector scores low risk (4%). There is a legal framework for the distribution of state advertising, and the direct and indirect state subsidies to media. Still, experts suggest a medium risk on the allocation of direct subsidies from the federal government, emphasizing that they are distributed to media based on a set of rules, but that it is unclear whether these rules are fair. For instance, news media initiatives (e.g. www.stampmedia.be, an online press agency for and by youngsters) have criticised the fact that most of these subsidies are assigned to traditional media outlets.

The indicator on independence of PSM governance and funding again shows a very low risk (3%). There are extensive regulatory safeguards (in the media acts and management contracts), which are overseen by independent regulatory authorities, both in the Flemish and in the French Community. Additionally, the Council of State is competent as appeal mechanism. There have been no cases before these bodies that provide any cause of concern in relation to independence of PSM.

25 Eg. MediAcademie, KIK, VAT-exemptions, Postal services, ... For more information on potential political influence on the media, please consult: De Keyser J., *Journalistieke autonomie in Vlaanderen: onderzoeksrapport in opdracht van het Kabinet van de Vlaamse minister van innovatie, overheidsinvesterings, media en armoedebestrijding*, Gent, Steunpunt Media, 2012, accessible at: <https://biblio.ugent.be/publication/3039856/file/3039872.pdf> (03.03.2017)

26 See by example the cases: B. Valkeniers en Vlaams Belang t. Vlaamse Radio- en Televisieomroep, beslissing 2009/025, 24 februari 2009; Frank Vanhecke t. Vlaamse Radio- en Televisieomroep, beslissing 2007/0032, 26 juni 2007; PVDA+ t. VRT en VRM, beslissing nr. 2014/025, 28 mei 2014; Piratenpartij t. VRT, nr. 2014/026, 28 mei 2014

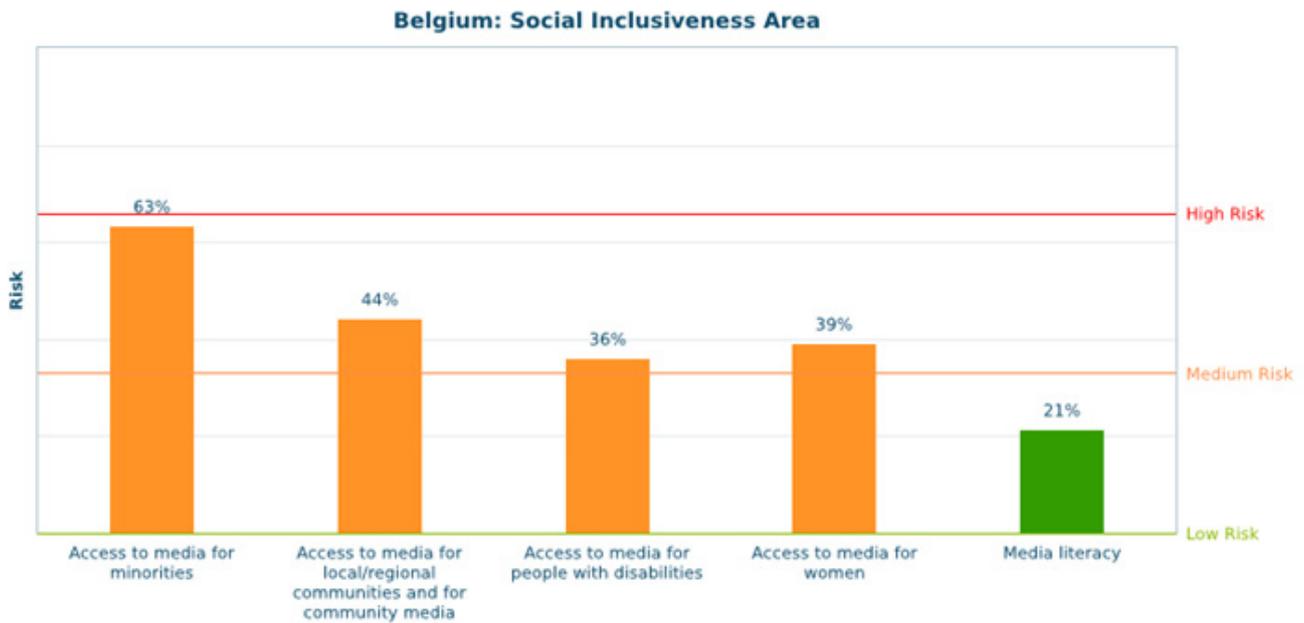


3.4 SOCIAL INCLUSIVENESS (41% - MEDIUM RISK)

The Social Inclusiveness indicators are concerned with access to media by various groups in society. The indicators assess regulatory and policy safeguards for community media, and for access to media by minorities, local and regional communities, women and people with disabilities. In addition to access to media by specific groups, the media literacy context is important for the state of media pluralism. The Social Inclusiveness area therefore also examines the country’s media literacy environment, as well as the digital skills of the overall population.

In comparison to previous monitoring results, the scores show a great increase of risks. This is due to new information which has surfaced from expert interviews.

Firstly, on the indicators related to the access to media for minorities, the risk borders to a high risk (medium risk,



63%). This risk is partially due to the fact that in Belgium, the different language communities have difficulty defining clear categories of minorities due to politically sensitive language legislation. French and Dutch speakers form a minority in some parts of the country but not in others, so that none can truly be considered a minority. As a result, any protection of access to media for minority groups, is mostly based on rather abstract, generic anti-discrimination regulation. For example, legal obligations regarding third-party programming on PSM have eroded over the years, but PSM still have the obligation to represent the diverse ideological and sociological groups in society in their programming, as specified in their mission charter.

Unfortunately, the lack of definitions and empirical data makes it difficult to give an objective answer to the questions relating to the size of the minority population and the proportionality of access to airtime on TV and radio for minorities, and dedicated newspapers to minorities.²⁷ However, experts in the field have suggested the economic difficulties of the past decade have caused any offer to minorities to be greatly reduced, leaving much room for improvement.

The indicator on access to media for local/ and regional communities was assessed as medium risk (44%). In particular, the variable on support to community media through subsidies or other policy measures was coded as medium risk. Different policies in Flanders and Wallonia have resulted in a fragmented system of subsidies and protection of community media.

Belgium scored a medium risk on access to media for people with disabilities. This is because the existing policies are both fragmented and in practice not always implemented correctly.²⁸ PSMs do a better job than private actors in

27 Only public broadcasters, such as the VRT ('Flemish Radio- & Television' Broadcaster), publish statistics in this regard; see <http://www.vrt.be/nieuws/2016/03/diversiteitscijfers-vrt-tv-meer-vrouwen-en-nieuwe-vlamingen> and <http://www.rapportannuelrtbf.be/engagements/>.

28 In regards to the audiovisual media services, EPRA has previously surveyed EU countries on their endeavours and targets in relating to the inclusion of the disabled and elderly minority groups. The 2013 report can be found at: http://epa3-production.s3.amazonaws.com/attachments/files/2202/original/accessibility_WG3_final_revised.pdf?1373379195 (03.03.2017)



implementing the regulations and policies, as they annually have to report their efforts in doing so. Among private actors large media players put in more effort than smaller ones, according to an expert interview. Overall, thorough revision, streamlining and correct implementation of the existing policies are due for the whole of Belgium.²⁹

The indicator on access to media for women was coded as medium risk (39%). Experts' interviews revealed that women are still underrepresented in news media, both as 'news subjects' and as 'reporters or presenters', in both online and traditional media. Moreover, a big gender gap exists regarding news personnel, in radio, television and print media. The risk assessment on these variables was mitigated by Belgium's legislative and policy efforts, including an effective equal rights law that applies to employment of women in media organizations and a comprehensive gender equality policy.

Belgium scored a low on media literacy (21%), as a result of a differing policy in the French and Flemish language communities regarding the mandatory inclusion of media literacy in the education curriculum, combined with a limited extent of media literacy in non-formal educational settings. Additionally, Belgium scores a medium risk regarding the share of internet users that have at least basic digital usage and communication skills. However, various and extensive initiatives on media literacy in both language communities are working hard to improve these results, both by educating citizens and by contributing to the democratic debate.

29 In regards to the audiovisual media services, EPRA has previously surveyed EU countries on their endeavours and targets in relating to the inclusion of the disabled and elderly minority groups. The 2013 report can be found at: http://epra3-production.s3.amazonaws.com/attachments/files/2202/original/accessibility_WG3_final_revised.pdf?1373379195 (03.03.2017)



4. CONCLUSIONS

We can conclude that Belgium scores well in relation to media pluralism.

It receives an overall positive score on Basic Protection, which is reflected in its relatively good position in the most recent World Press Freedom Index. Strong points include Belgium's strong recognition of fundamental rights and safeguards for the journalistic profession. Points that leave room for improvement include the continued criminalization of defamation, problems in practice with arbitrariness and misused appeal mechanisms for the right to information, and practical obstacles for the journalistic profession relating to job insecurity.

As in the 2016 report, the analysis of the economic indicators in the domain of Market Plurality shows highly concentrated markets, with multiple cross media links between market players. Recent consolidation in the sector has had less effect on mitigating the risks concerning media viability as originally hoped. Considering the novelty of these events, future numbers may reflect the level of viability more accurately as it allows players to create synergies and jointly invest in digital and online strategies. Another mitigating factor is the existing regulatory framework on transparency of media ownership and the permanent monitoring of media concentration and ownership structures by the Flemish and French Community media regulators.

In the area of Political Independence risks are mostly low for Belgium. Some experts indicated that there is a subtle link between politics and media ownership, mostly situated in relation to those media organisations that (at least partially) depend on governmental finances and/or support.³⁰ However, they also indicated that these links are very difficult to prove and may thus unknowingly pose a reason for concern.

With regard to Social Inclusiveness, the indicators show medium risks. Historic, political evolutions are at the core of Belgium's difficulties defining clear categories of minorities to protect Minority groups thus generally do not benefit from concrete positive actions apart from general anti-discrimination laws, with the exception of PSM, who have to observe certain levels of minority participation. Additionally, Belgium is currently making efforts to improve access to media for women and has developed several initiatives with regard to media literacy to overcome their current shortcomings in this respect.

30 Eg. MediAcademie, KIK, VAT-exemptions, Postal services, ... For more information on potential political influence on the media, please consult: De Keyser J., Journalistieke autonomie in Vlaanderen: onderzoeksrapport in opdracht van het Kabinet van de Vlaamse minister van innovatie, overheidsinvesteringen, media en armoedebestrijding, Gent, Steunpunt Media, 2012, accessible at: <https://biblio.ugent.be/publication/3039856/file/3039872.pdf> (03.03.2017)



ANNEXE 1. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2017 CT Leader (please indicate with X)
Peggy	Valcke	Professor	CiTiP - KUL	X
Ingrid	Lambrecht	Researcher (doctoral)	CiTiP - KUL	
Nadia	Feci	Researcher (student)	CiTiP - KUL	

ANNEXE 2. 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
Leen	D'Haenens	Professor	IMS - KUL
Hanne	Vandenberghe	Researcher	IMS - KUL
Katrien	Lefever	In-house legal counsel	Medialaan
Sanne	Hermans	Communication coordinator	Mediawijs
Bart	Simons	Advisory Member	Anysurfer
Claude	Archer	Founder	Transparencia
Britt	Adams	Researcher	UGhent
Ingrid	Kools	Representative	Flemish Media Regulator



