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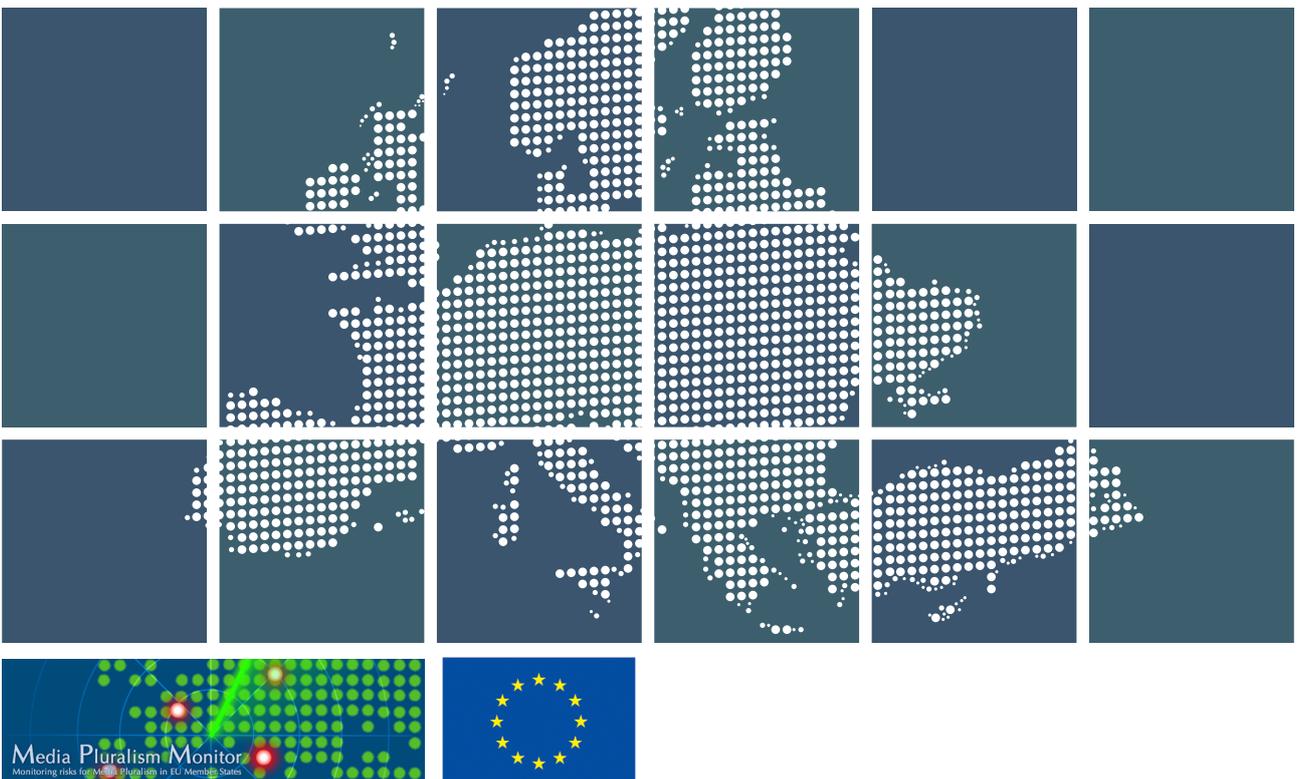
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Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2017 in the European Union, FYROM, Serbia & Turkey

Country Report: Poland

Authors: Beata Klimkiewicz



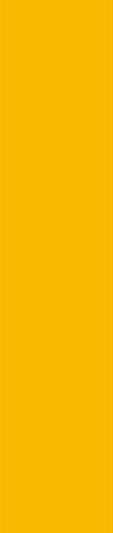


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1. ABOUT THE PROJECT

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 Poland, the CMPF partnered with Beata Klimkiewicz (Jagiellonian University), 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 Annex 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 a total absence or certainty of risk. For more information on the 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 those of MPM2016. For more details, see the CMPF report on MPM2017, which will soon be available on <http://cmpf.eui.eu/media-pluralism-monitor/>



2. INTRODUCTION

A social, economic and political environment creates an important context for the dynamics of media pluralism. With 38,118,505 inhabitants¹, Poland ranks the 6th largest country of the European Union and the largest media and linguistic market among the Central and East-European EU Member States. Ethnic and linguistic structure of the population is relatively homogenous with 97% of citizens identifying with Polish nationality. The state officially recognises 9 national minorities, 4 ethnic groups, and one language (Kashubian) enjoys officially the status of a minority and regional language.² According to the last 2011 census,³ the largest minority group are Silesians (1.1%), but the group is not officially recognized as a national minority. Other declared minorities account below 1%.

A relatively stable economic situation and steady growth constitute the supportive environment for development of various media services, including new online media. According to the World Bank estimates, Poland's GDP grew 4.5% in 2017.⁴ Proportions of both foreign and domestic capital and ownership (both EU and non-EU) in the media sector are quite significant. The Polish media landscape is composed of strong and concentrated TV networks, which dominate news provision, declining, but still influential and opinion-forming newspaper groups, and growing web portals.

A volatile and swiftly-changing political scene in Poland has stabilized since more than last 10 years. Since the 2015 parliamentary and presidential elections, the government, president and his cabinet have been composed mostly of the governing Law and Justice Party's representatives, with some minor participation of the coalition partners. In December 2017, Mateusz Morawiecki was appointed a new Prime Minister⁵. The changes are mostly expected to improve the country's international standing after the European Commission has initiated a 'rule of law' procedure under Article 7 of the European Treaties. In 2016 and 2017, the government has undertaken a series of controversial reforms, in judiciary, civil service and public service media. In November 2016, the government announced its willingness to introduce a new de-concentration bill (Ustawa dekoncentracyjna), possibly leading also to "repolonisation" of media ownership. So far, the draft bill has not been publicly presented.

The two broadcasting law amendments⁶ introduced in 2015 and 2016 affected mainly appointment and operation of PSM and a leading national press agency (PAP), as well as competences of constitutionally recognized media authority – National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji - KRRiT). These regulatory developments sparked criticism of various international and national organisations, and led to a more critical evaluation of press freedom by Freedom House as well as Reporters Without Borders in 2017, while the domestic journalistic environment remained deeply divided on the effects of the regulatory changes.

1 According to Worldometers, based on the latest United States estimates, <http://www.worldometers.info/world-population/poland-population/>.

2 The 2005 Act on national and ethnic minorities and on the regional languages (Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym), adopted on 6 January 2005, Official Journal 2005, No 17, item 141. (available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20050170141>; retrieved 20.10.2016).

3 GUS (Central Statistical Office) (2011) Raport z wyników: Narodowy Spis Powszechny Ludności i Mieszkań 2011 (The Concluding Report: 2011 Census) (available at: http://stat.gov.pl/cps/rde/xbcr/gus/lud_raport_z_wynikow_NSP2011.pdf; retrieved 20.07.2016).

4 World Bank (2018) Global Economic Prospects, <http://pubdocs.worldbank.org/en/465111512062598806/Global-Economic-Prospect-2018-Europe-and-Central-Asia-analysis.pdf>

5 A broader reshuffle concerning ministerial changes followed in early 2018.

6 Act Changing the Broadcasting Act, so called "Small Media Act" (Ustawa o zmianie ustawy o radiofonii i telewizji, tzw. "Mała Ustawa Medialna") adopted on 30 December 2015, Official Journal 2016, item 25. <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20160000025>, unofficial translation: <http://www.krrit.gov.pl/en/for-broadcasters-and-operators/legal-regulations/>. Act on the National Media Council Ustawa o Radzie Mediów Narodowych) adopted on 22 June 2016, Official Journal 29 June 2016, item 929, <http://dziennikustaw.gov.pl/du/2016/929/1>.



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

The 2017 MPM measurement shows a red and yellow light for media pluralism in Poland as risks in four areas reach medium and high levels. This stems mainly from the fact that media pluralism was challenged by some new issues, while others have continued to be unresolved from the past. The risks seem to be high particularly in two areas – market plurality (70%) and political independence (69%).

Within these, one of the highest risks is detected in the field of independence of PSM governance and funding (83%). PSM appointment procedures underwent fundamental legal changes in 2015 and 2016, and resulted in growing political pressure and control over the PSM. PSM dependency on the government might increase even more with a suggested change of funding that would open the doors for financing of PSM solely from the state budget since 2019.⁷

Ownership media concentration (both horizontal and cross-media) stands traditionally for one of the largest threats to diversity in the market plurality area, and these structural conditions have endured for a relatively long period of time in Poland. Two new takeovers – of TVN group by the US Discovery in 2016 and Eurozet by the Czech Media Invest in early 2018 once again displayed serious limitations and weakness of regulatory measures in place.

In the basic protection area, criminalization of defamation and higher protection of public officials against journalistic criticism continues to raise concerns as was the case of the publication of the book “Macierewicz i jego tajemnice” (Macierewicz and his Secrets) by Tomasz Piątek in 2017. The cornerstone of an enabling environment for freedom of expression and media freedom is a well-functioning judicial system, free of political pressures. Since the end of 2015, the Polish judicial system and Constitutional Tribunal underwent a series of amendments that resulted in diminishing judicial independence, but also contributed to growing uncertainty among journalists and media professionals as their unrestricted performance critically depends on judicial guarantees.

In the social inclusiveness area, access to media for women scores the highest risk across all areas measured (96%). Such an alarming result stems mainly from the lack of a comprehensive gender equality policy in PSM and strong underrepresentation of women among executives and boards of PSM and private audiovisual media.

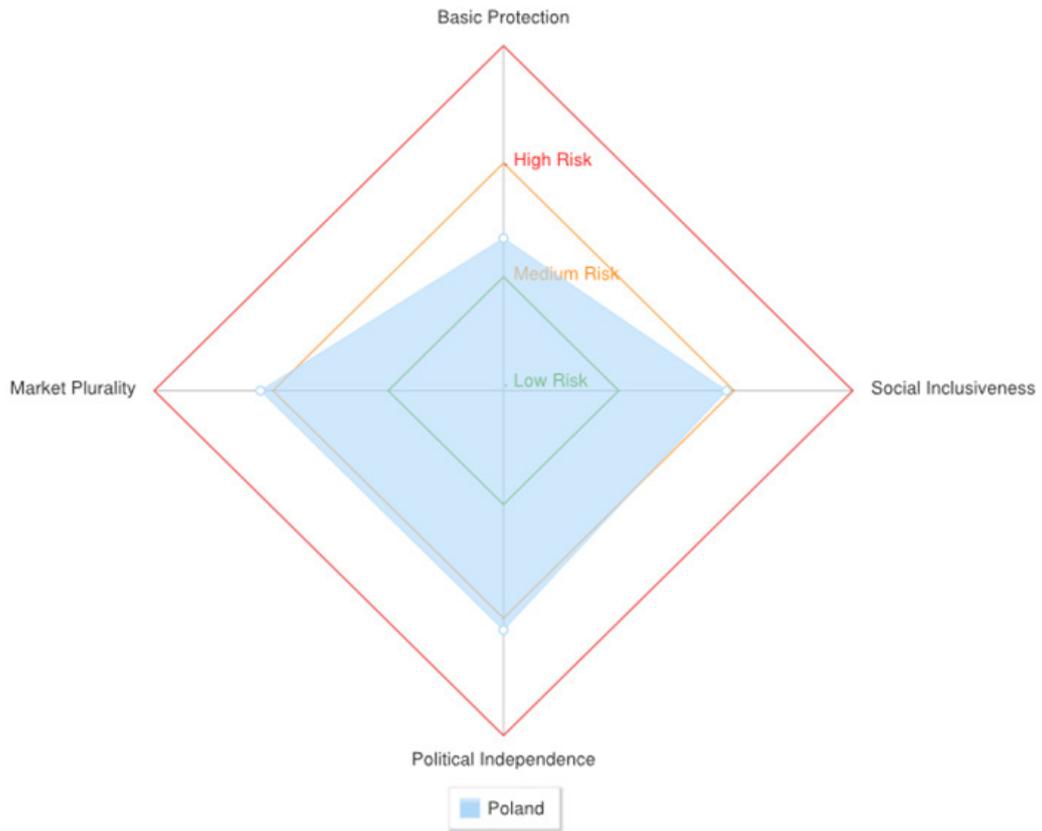
In 2017, only two indicators detect low risk: journalistic profession, standards and protection (20%) and independence and effectiveness of the media authority (30%). Despite this relatively satisfactory result, in both cases there are problematic issues. The journalistic environment in Poland lacks a coherent and unified institutional setup that would effectively represent both journalistic interests and professional standards. As regards the media authority (KRRiT), in most of its history KRRiT’s appointment procedures and membership have been politically controlled.⁸

7 See more about the issue on the page 11 - 12.

8 See: Ociepka, B. (2003) Dla kogo telewizja? Model publiczny w postkomunistycznej Europie Środkowej. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego; Klimkiewicz, B. (2014) A Polyvalent Media Policy in the Enlarged European Union. Jagiellonian University Press: Cracow.

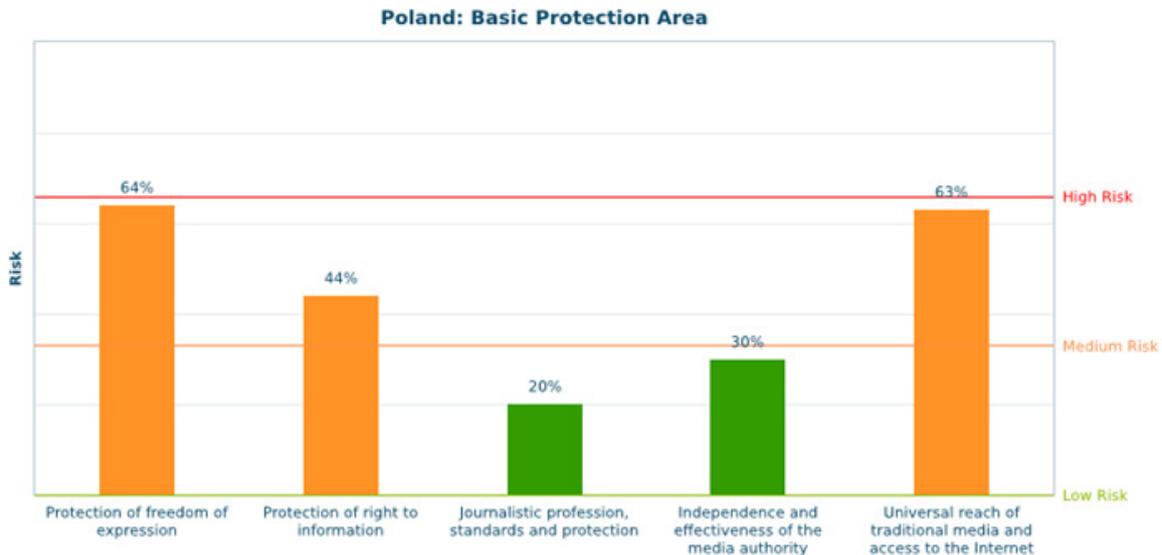


Poland: Media Pluralism Risk Areas



3.1 BASIC PROTECTION (44% - MEDIUM 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 the competence to regulate the media sector, and the reach of traditional media and access to the Internet.



During the last two years, protection of freedom expression has been challenged by several new issues in Poland. Some other issues continue to be unresolved from the past. This finds its reflection in a relatively high score (64%) of a medium risk characterizing the indicator on protection of freedom of expression. Criminalization of defamation (especially Article 212 of the Criminal Code) persists to raise concerns. Protection of public officials continues to be supported by the use of Criminal Code procedures against journalistic criticism as was the case of the book about the former defence minister “Macierewicz i jego tajemnice” (Macierewicz and his Secrets) by Tomasz Piątek in June and July 2017.⁹ The cornerstone for an enabling environment for freedom of expression and media freedom is a well-functioning judicial system, free of political pressures. Since the end of 2015, the Polish judicial system and Constitutional Tribunal underwent a series of amendments that resulted in the new composition and procedures affecting independence of key judicial bodies such as the Constitutional Tribunal, The National Court of the Judiciary and the Supreme Court. Moreover, as an effect of the judicial reform passed in July 2017, the powers of the Minister of Justice increased mainly with regard to appointment and dismissal of court presidents and deputy presidents. These changes do not only diminish judicial independence in Poland, but also contribute to growing uncertainty among journalists and media professionals as unrestricted performance of freedom of expression and the media depends on judicial guarantees.¹⁰

The indicator on protection of right to information scored 44% (medium risk). Although the right to information is relatively respected in Poland, delays and failures in responses of public administration happen frequently. In December 2016, the Speaker of the Sejm (lower house of the parliament) proposed new rules for media and journalists’ access to the Sejm proceedings that would limit the number of reporters with full parliamentary access. After the protests taking part both inside and outside of the Parliament, the government decided to revoke the controversial proposal.

9 Press.pl (2017) Rekordowa sprzedaż książki Tomasza Piątka o Antonim Macierewiczu (The record sale of Tomasz Piątek’s book about Antoni Macierewicz), <http://www.press.pl/tresc/49448,rekordowa-sprzedaz-ksiazki-tomasza-piatka-o-antonim-macierewiczu>; After the wave of a criticism raised by domestic and international journalistic organisations, the Warsaw District Prosecutor’s Office declined from further investigations in the case in March 2018.

10 In February 2018, President signed into law a new National Memory Bill, amending the Law on the Institute of National Remembrance. The new law imposes fines and penalties for anyone found guilty of falsely ascribing responsibility or co-responsibility to the Polish nation for the crimes committed by Nazi Germany, whether the statements are made in Poland or abroad. Exceptions are guaranteed for artistic and academic purposes. The adoption of the law was met with fierce criticism from the US and put at a serious risk Polish-Jewish relations.



The lowest level of risk in this area manifests in journalistic profession, standards and protection (20%). On the one hand, no journalists were killed in recent years in Poland, journalists are not arbitrarily imprisoned and access to journalistic profession is open. On the other hand, the journalistic environment in Poland lacks a coherent and unified institutional setup that would effectively represent both journalistic interests and professional standards. The landscape of journalistic associations is very fragmented and ideologically divided. Different narratives of the divided journalistic community can be illustrated e.g. by polarized attitudes towards critical evaluations of freedom of expression in Poland by FH and RSF/RWB.¹¹ One part of the journalistic community perceived the evaluations as stigmatizing, while portraying Poland as a non-democratic country, the other part saw them as a well-deserved account.¹²

The indicator on measuring the independence and effectiveness of media authority shows a low risk (30%). KRRiT's (Krajowa Rada Radiofonii i Telewizji – National Broadcasting Council) tasks, competencies and powers are clearly defined in law and the institution enjoys budgetary independence, at the same time, in most of its 25-years' old history KRRiT's membership has been politically controlled¹³. Much of every-day routine regulatory practices carried out by the Office are not directly affected by political affiliation of the KRRiT members. At the same time, political pressure results occasionally in politically-motivated decisions. Such an example was the recent controversial decision of the KRRiT to impose a fine amounting to 1.47 million Polish Zloty to TVN24 (commercial news TV channel) for “biased coverage” of the protests in the Polish Parliament in December 2016. The decision was ultimately revoked by the KRRiT Chairman.¹⁴

The indicator on universal reach of traditional media and access to the internet shows a medium risk with a quite high score – 63%. This can be explained on the one hand by the fact that standard parameters for universal access used by MPM tended to be relatively high. On the other hand, the indicator also showed a relatively high concentration of market shares by the top 4 ISPs reaching 56% in 2016.¹⁵

11 Freedom House (2017) Freedom of the Press 2017: Poland Profile, <https://freedomhouse.org/report/freedom-press/2017/poland>; Reporters Without Borders (2017) 2017 World Press Freedom Index: Poland, <https://rsf.org/en/poland>.

12 Wirtualnemedial.pl (2017) Spadek Polski w rankingu wolności mediów: rząd w pełni na niego zasłużył czy wynika z politycznych uprzedzeń? (Decline of Poland in media freedom rankings: did the government deserve it or does it result from political prejudice?) <http://www.wirtualnemedial.pl/artykul/rankingu-wolnosci-mediow-spadek-polski-rzad-w-pelni-na-niego-zasluzyl-czy-wynika-z-politycznych-uprzedzen>

13 See: Ociepka, B. (2003) Dla kogo Klimkiewicz, B. (2014) A Polyvalent Media.....

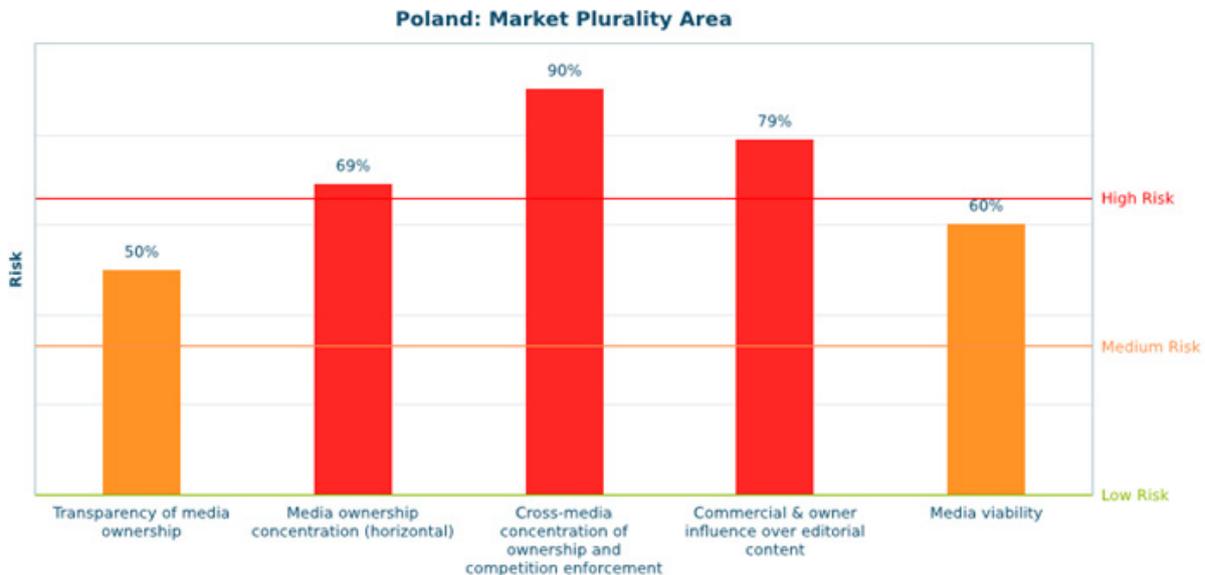
14 Money.pl (2018) Gigantyczna kara dla TVN. KRRiT cofa decyzję z grudnia (The gigantic fine for TVN. KRRiT revokes its decision from December), <https://www.money.pl/gospodarka/wiadomosci/artykul/kara-tvn-krrit,132,0,2396036.html>.

15 UKE (2017) Raport o stanie rynku telekomunikacyjnego w Polsce w 2016 roku (The Report about telecommunication market in Poland in 2016), <https://www.uke.gov.pl/raport-o-stanie-rynku-telekomunikacyjnego-w-2016-roku-22341>.



3.2 MARKET PLURALITY (70% - HIGH 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.



Overall, market plurality detected the highest risk (70%) among all measured areas. This stems mainly from high scores of indicators on media concentration, but actually no indicator in the whole area shows a low risk.

The indicator on media transparency reaches medium score – (50%). Legal obligations requiring disclosure of certain data about media ownership and financial situation do not ensure the public is fully informed and aware of who controls and owns particular media outlets and services in Poland. As regards the public authorities, they are generally well-informed, although there are also some limitations. First, the changes in media ownership are fast and continuous. Second, media companies registered abroad do not have to comply with Polish national laws. Third, the data are relatively fragmented and there isn't an aggregating register providing complete account on media ownership which would be accessible in one place.

The indicator on horizontal media concentration shows the high risk amounting to 69%. Both media and competition laws¹⁶ grant very limited measures to relevant regulatory bodies in order to prevent a high degree of (horizontal) media concentration. The threshold for a dominant position is very high – 40%, and still, on some markets, it tends to be exceeded. In 2015, market share of the top 4 audiovisual owners amounted to 93% and audience share in 2016 to 79.3%. A takeover of TVN group by the US Discovery in 2016 and other cases¹⁷ display serious limitations and weakness of regulatory measures in place. The government already announced its willingness to introduce a new de-concentration bill (Ustawa dekoncentracyjna) in November and December 2016. So far, the draft bill has not been publicly presented, but there are some concerns that it might lead to the abuse of a state position vis-à-vis media companies.¹⁸

16 1992 Broadcasting Act (Ustawa o Radiofonii i Telewizji) adopted on 29 December 1992, as amended, Official Journal 1993, No 7, item 34; 2007 Act on Competition and Consumer Protection (Ustawa o Ochronie Konkurencji i Konsumentów) adopted on 16 February 2007, Official Journal, 2007 No 50, item 331, as amended (available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20070500331>)

17 In 2018, the Czech Media Invest acquired Eurozet Group from French Lagardere. In this case, the issue is not only a significant market share in the radio market, but also a lack of ownership transparency regarding the Czech Media Invest Group, composed of several shareholders, one of which seems to use an investment of the Chinese company, which faces fraud allegations in China. Danis, See: D. (2018) J&T and Penta maju problem: Cinska posila krachuje (J&T and Penta face problems: The Chinese “support” goes bankrupt, <https://www.aktuality.sk/clanok/591381/komentar-daga-danisa-j-t-a-penta-maju-problemy-cinska-posila-krachuje/>).

18 See e.g.: Klimkiewicz, B. (2017) State, media and pluralism: Tracing roots and consequences of media policy change in Poland (in) *Publizistik*, <https://link.springer.com/article/10.1007/s11616-017-0337-5>



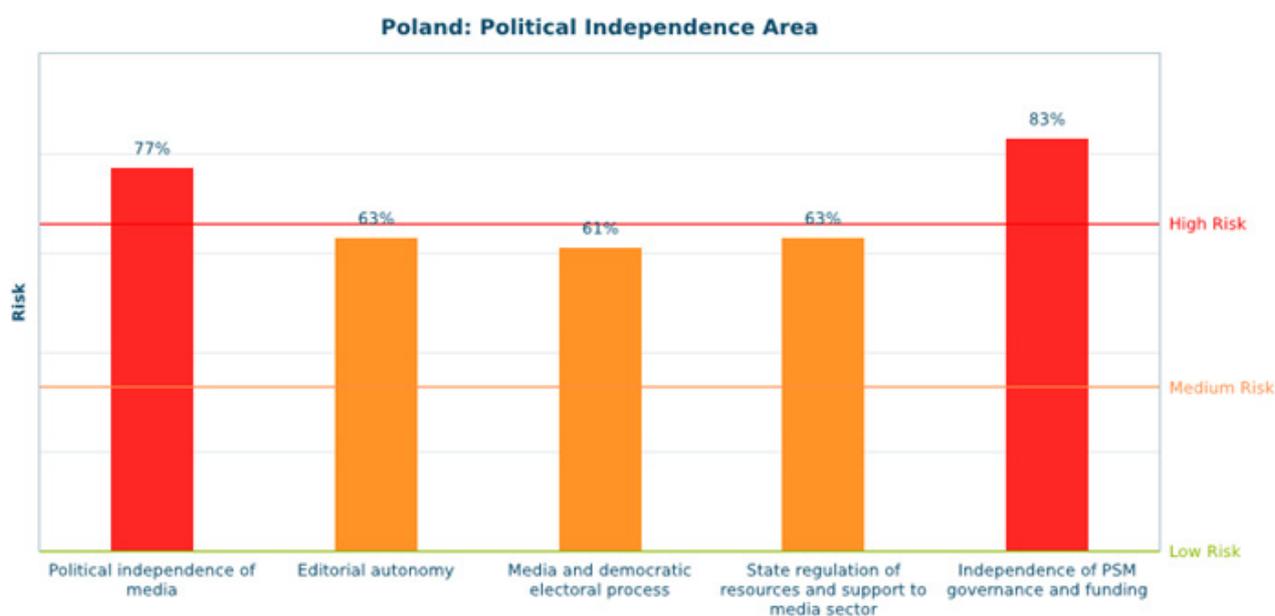
The score of the indicator on cross-media ownership proves to be one of the highest among all indicators achieving 90%. Current media and competition laws do not contain specific rules that could prevent a high degree of cross-ownership between the different media. The data on cross-media revenues and shares in cross-media market are missing. There are several media groups that offer services across various media sectors, including: Polsat Group (in the TV/telecom sector), Bauer (in the press, radio and news portals' sector), Axel Springer Ringier (in the press and internet sector) and Agora (almost all media sectors).

The indicator on commercial and owner influence over editorial content ranks in the high risk band (79%). This result stems mainly from the fact that mechanisms granting social protection to journalists in case of ownership changes are missing. Despite that some rules on advertorials exist in the 1984 Press Law Act, they are not effectively implemented.¹⁹ Commercial influence on the editorial content in Poland has been more subtle than political influence, and less discussed openly by the journalists and media themselves.

The indicator on media viability detects a medium risk (60%). Revenues from advertising have increased in the internet and audiovisual sectors in recent years, while they have decreased for the press sector, and newspapers in particular. Press publishers have been struggling with declining circulation. Some publishers became relatively successful with paid digital subscriptions as Poland scores quite high in terms of paying for digital news.²⁰ Traditional legacy media, but also independent producers and often bloggers and youtubers search for new forms of digital expression such as political satire (e.g. Ucho Prezesa - The Chairman's Ear) or startups offering journalistic commentary, investigation and fact-checking (e.g. Oko.Press, BiqData.pl).

3.3 POLITICAL INDEPENDENCE (69% - HIGH RISK)

The Political Independence indicators assess the existence and effectiveness of regulatory safeguards against political bias and political 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.



¹⁹ 1984 Press Law Act, Article 12.2.

²⁰ Reuters Institute for the Study of Journalism (2017) Reuters Institute Digital News Report 2017: Poland, <http://www.digitalnewsreport.org/survey/2017/poland-2017/>



In the area of political independence, the level of risk for media pluralism is high (69%). This seems to result mainly from the high risk of two indicators: political independence of media (77%) and independence of PSM governance and funding (83%).

Relevant regulatory safeguards limiting political control over media outlets in Poland (such as rules on limitations to control of media by politicians) are virtually missing. Owners of the largest media in Poland have no open affiliation with political parties, but political preferences are clearly reflected in journalism and media content. Most of the newspapers and news weeklies expose openly political orientations and promote distinct political views.

The indicator on editorial autonomy shows the medium risk (63%). In general, regulatory safeguards guaranteeing editorial autonomy are missing in Poland. Political influence is especially visible in appointment strategies of PSM. There are several self-regulatory measures stipulating editorial independence in the media, however their effectiveness is fairly limited. This stems mainly from the fragmentation of the journalistic environment in Poland and scant membership in journalistic organizations.

The indicator on media and democratic electoral process detects a medium risk, at the lowest level in this area (61%). Electoral and media laws provide for fair and proportional representation of various political groups and parties, but during the last electoral campaigns both PSM and commercial media have tended to focus much more frequently on the two largest parties – PIS (Law and Justice) and PO (Civic Platform) than other political parties.²¹

The indicator on state regulation of resources and support to media sector ranks in the medium risk band (63%). In Poland, an approach to media markets has not envisaged subsidies or other schemes supporting media outlets. Relevant ministries have at their disposal funds for specific projects regarding their area of competence, also including the media, however, there is a lack of transparency and coherent information on the usage of these. Available data on distribution and proportions of the state advertising are very limited, and require a careful analysis. Such was a case of the data provided by Kantar Agency in 2017 showing that advertising from state-owned companies has decreased significantly in press critical to the current government, while it has increased in the right-wing press sympathetic to the government.²²

The highest risk was detected for the indicator on the independence of PSM governance and funding (83%). PSM appointment procedures underwent fundamental legal changes in 2015 and 2016.²³ They resulted first in appointment of PSM Directors General and Boards of Management by minister of state treasury, and later, by the new regulatory body for PSM – National Media Council (Rada Mediów Narodowych - RMN). Unfortunately, RMN lacks adequate legal safeguards protecting against political influence. The current composition of RMN is dominated by active members of the governing Law and Justice Party. While exerting political pressure and control over the PSM in Poland and television in particular, has not been a new phenomenon, the PSM's political leaning under the current management has reached an unprecedented scale. Polish PSM, and TV in particular, have been financed predominantly from advertising. In 2017, however, TVP received a substantial loan from the government as well as a significant compensation from the state budget. At the beginning of 2018, the RMN Chair announced that in 2019 PSM will be financed solely from the state budget²⁴, which will increase even more the PSM dependency on the governmental sources.

21 See: OSCE (2016) Republic of Poland: Parliamentary Elections, 25 October 2016, OSCE/ODHIR Election Assessment Mission Report, <http://www.osce.org/odihr/elections/poland/191566>; KRRiT (2015) Kto bezstronny, kto pluralistyczny? Monitoring wyborów parlamentarnych 2015 (Who is impartial? Whom pluralistic? The monitoring of parliamentary elections)

<http://www.krrit.gov.pl/krrit/aktualnosci/news,2176,kto-bezstronny-kto-pluralistyczny-monitoring-wyborow-parlamentarnych-2015.html>
22 wp.pl (2017) Te liczby szokują. Nawet 1900 proc. więcej na reklamy państwowych firm w prawicowej prasie (These numbers are shocking. More than 1900 per cent of funding for advertising by state companies in right wing press), <https://wiadomosci.wp.pl/te-liczby-szokuja-nawet-1900-proc-wiecej-na-reklamy-panstwowych-firm-w-prawicowej-prasie-6140609609774721a>

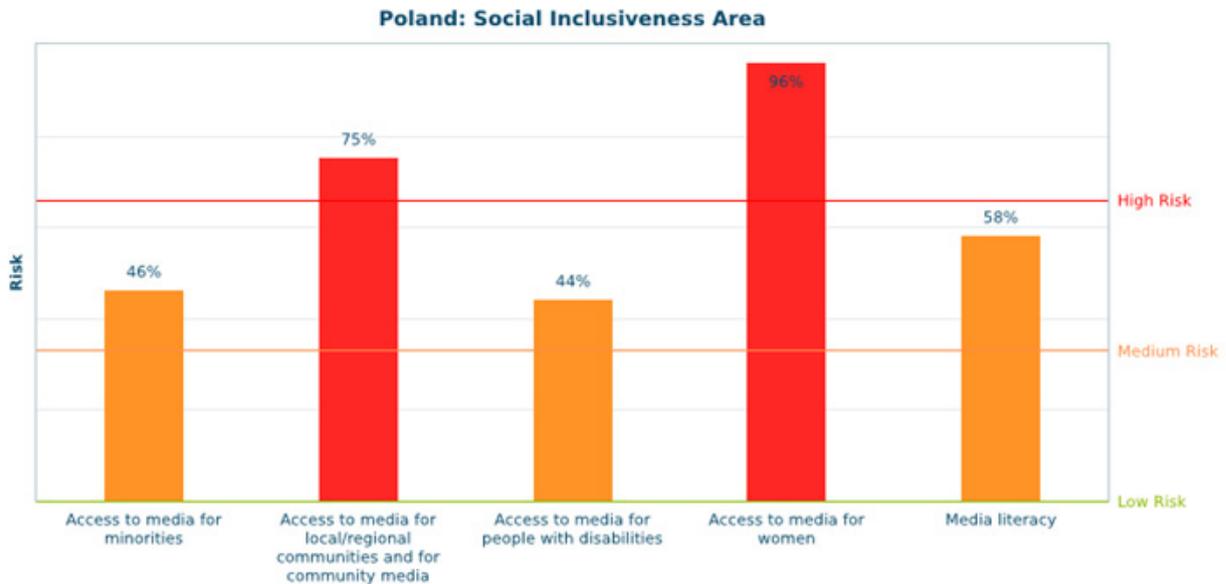
23 The 2015 Act Changing the Broadcasting Act, so called “Small Media Act” (Ustawa o zmianie ustawy o radiofonii i telewizji, tzw. “Mała Ustawa Medialna”) adopted on 30 December 2015, Official Journal 2016, item 25. <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20160000025>, unofficial translation: <http://www.krrit.gov.pl/en/for-broadcasters-and-operators/legal-regulations/>;
The 2016 Act on the National Media Council Ustawa o Radzie Mediów Narodowych) adopted on 22 June 2016, Official Journal 29 June 2016, item 929, <http://dziennikustaw.gov.pl/du/2016/929/1>

24 dorzeczy.pl (2018) Od 2019 r. koniec z abonamentem. Media publiczne będą finansowane z budżetu państwa (End of the license fees since 2019. The PSM will be financed from the state budget), <https://dorzeczy.pl/obserwator-mediow/52862/Od-2019-r-koniec-z-abonamentem-Media-publiczne-beda-finansowane-z-budzetu-panstwa.html>



3.4 SOCIAL INCLUSIVENESS (64% - MEDIUM RISK)

The Social Inclusiveness indicators are concerned with access to the 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 the 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.



The social inclusiveness area ranks in the medium risk band, but the average level of risk seems to be relatively high (64%). None of the indicators in this domain ranked low risk. Access to media for minorities scored the medium risk (46%). Although the situation has improved in Poland since the last 25 years, ethnic and national minorities still do not enjoy proportional media representation. Access to airtime on PSM to minorities is guaranteed by the 1992 Broadcasting Act (Article 21.1a.8a). In addition, the 2005 Act on national and ethnic and on regional languages includes several provisions that refer to access of information or communication or media providing content in minority languages.²⁵ It should be emphasized that the proportion of minority programming, in particular on TV, remains very small, even decreasing. Programmes are often unstable in schedules (they appear and disappear), broadcast during inconvenient time slots and mostly target regional audiences. A share of programmes produced in minority languages on Polish Television has remained fairly marginal, and has decreased in the last 5 years.²⁶ Non-recognized minorities do not enjoy the same status as officially recognized minorities.²⁷

Access to media for local and regional communities and for community media scores the high risk amounting to 75%. Although the 1992 Broadcasting Act provides regional or local media with access to media platforms,²⁸ supportive measures such as direct subsidies or other schemes strengthening the fragile sector of local media are missing. Community media are not legally recognized as a third sector in Poland. The 1992 Broadcasting Act operates with the category of ‘social broadcasters’, but their independence is not recognized as a legal condition.²⁹ In general, non-profit media such as student radios or minority media have quite marginal impact on a larger society with the exception of Catholic media and Radio Maryja and TV Trwam in particular. In July 2017, according to the Institute for Media Monitoring, Radio Maryja and TV Trwam belonged to the most influential opinion-forming media in Poland, with

25 The 2005 Act on national and ethnic minorities and on the regional languages (Ustawa o mniejszościach narodowych i etnicznych oraz o języku regionalnym), adopted on 6 January 2005, Official Journal 2005, No 17, item 141. <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20050170141> unofficial English translation: http://ksng.gugik.gov.pl/english/files/act_on_national_minorities.pdf

26 See also: CoE, Committee of Ministers (2015) The Resolution CM/ResCMN(2015)3 on the implementation of the Framework Convention for the Protection of National Minorities, adopted by the CoE Committee of Ministers on 4 March 2015, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c3cfd

27 In February 2017, TVP broadcasted the report focusing on activities of the Silesian Autonomy Movement (Ruch Autonomii Śląska), promoting regional autonomy for the Silesian region. The report was highly polarizing and portrayed the organization as anti-Polish. See: Dorzeczy.pl (2017) KRRiT odrzuciła skargę Nowoczesnej na program Anity Gargas (KRRiT rejected a complaint of Modern party concerning the programme of Anita Gargas), <https://dorzeczy.pl/kraj/35416/KRRiT-odrzucila-skarge-Nowoczesnej-na-program-Anity-Gargas-w-TVP.html>

28 1992 Broadcasting Act,..... Article 26(6)

29 1992 Broadcasting Act,.....Article 4(10)



Radio Maryja on the fourth position among all covered radio stations, and TV Trwam in first place.³⁰

Measurement of access to media for people with disabilities detected the medium risk (44%). The policy concerning access to media content by the physically challenged people has improved in recent years. However, it seems to be far from satisfying media users with disabilities.³¹ In 2016, an average share of programming with aids for persons with subtitles (12%), followed by programmes interpreted by sign language (3%) and programmes with audiodescription (1.6%).³² For most of these categories the European average is significantly higher.

Access to media for women scores the highest risk across all areas measured amounting to 96%. Such an alarming result stems from several reasons. First, PSM lack a comprehensive gender equality policy other than general employment guidelines. Second, women are not represented in PSM management boards and among current PSM executives. Third, the share of women among members of management boards of private TV companies reaches 24% and among executives 0%.

Measurement of the indicator on media literacy detected the medium risk - 58%. Although media literacy has been increasingly recognized as an important concern in media policy, public institutions haven't developed a comprehensive systematic approach encompassing both formal and non-formal, systematic as well occasional activities and projects. In practice, media literacy does not present an integral part of obligatory education programmes in primary and secondary schools. Thus, media literacy is present in a limited extent, mainly through workshops, bottom-up activities often supported and initiated by parents. Regular measurement/analysis concerning media users' abilities and skills to effectively and safely use offered media services would certainly improve policy design and decisions.

30 Imm.com (Institute for Media Monitoring) (2017) Najbardziej opiniotwórcze polskie media w lipcu 2017 (The most influential Polish opinion-forming media in July 2017), https://www.imm.com.pl/sites/default/files/raporty/najbardziej_opiniotworcze_media_w_lipcu_2017.pdf.

31 See: Saccessibility (2017) Idą zmiany w dostępności mediów (Changes in media accessibility are coming), <http://saccessibility.pl/ida-zmiany-w-dostepnosci-mediow/>.

32 KRRiT (2017) Sprawozdanie z działalności 2016 (Annual Report 2016) <http://www.krrit.gov.pl/krrit/sprawozdania/>, KRRiT (2017) Informacja o podstawowych problemach radiofonii i telewizji w 2016 roku (information about basic issues concerning radio and television in 2016) <http://www.krrit.gov.pl/krrit/sprawozdania/>



4. CONCLUSION

In 2017, media pluralism in Poland has been exposed to high and medium risks in the four areas of the measurement.

Basic protection area (44% - medium risk)

Although the basic protection area accounts for the lowest risk among all of the areas, some of the problematic issues seem to have complex implications for media pluralism and media freedom generally. The conditions of the basic protection area would particularly benefit from:

- addressing criminalisation of defamation and ensuring that the Criminal Code (Article 212 in particular) is not used in unduly restrictive way to silence journalistic criticism of public officials,
- ensuring an enabling environment for freedom of expression and media freedom by enhancing judicial independence,
- given that political control is the weakest element of media authority's (KRRiT) effectiveness and independence, the institutional autonomy and mandate of KRRiT should be reinforced with leadership (reflecting not only political structure of the parliament and president, but representing a social and cultural milieu including NGOs, educational institutions, journalistic associations and others).

Market plurality area (70% - high risk)

The market plurality area detects the highest risk score among all of the areas. These conditions stem on the one hand from weak regulatory measures, on the other hand they result from a relatively high level of media concentration. The high level of risk in this area can be reduced by:

- establishing effective anti-concentration rules that would be more sensitive to specific features of relevant media markets and addressing cross-media ownership,
- providing transparent and full public access to information on distribution of state advertising among all media outlets,
- designing and implementing media transparency register, offering free-of-charge and full public access to information about: the ultimate media owner, the official location of the company's seat, information where the company pays taxes, a full catalogue of owned media services and outlets, information on total revenues, advertising revenues, with detailed data showing proportion of state or public advertising.

Political independence area (69% - high risk)

In the area of political independence, the level of risk for media pluralism reaches 69%. The overall high risk stems mainly from the high risk of two indicators: political independence of media (77%) and independence of PSM governance and funding (83%). The high score of the risk in this area can be balanced by:

- introducing relevant regulatory safeguards limiting political control over media outlets (including such rules as limitations of media ownership and control by politicians)
- ensuring an impartial model of PSM governance, especially appointment procedures that would allow to select PSM boards without influence of the government or commercial interests,
- providing substantial and long term funding for PSM other than from the state budget.

Social inclusiveness area (64% - medium risk)

The social inclusiveness area shows a medium risk, close to the high level (64%). In particular two indicators reach significantly high risks - access to media for local and regional communities and for community media (75%) and access to media for women (96%). An inclusive access to media by various social groups in society might be improved by:

- adopting some support schemes for local media and ensuring that access of minorities to relevant media services is proportional and is guaranteed to all minority groups,
- legal and policy recognition of community media while respecting their independent status,
- legal and policy recognition of gender equality, particularly in PSM.

The dynamic and complex nature of media pluralism finds its legitimation in a fact that initiatives aiming at reduction of high and medium risks do not origin only in public institutions and the government, but most importantly, reflect the participation of various communities and where they already exist (such as initiatives concerning PSM or media literacy), should be well integrated with public policies.



ANNEXE 1. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2017 CT Leader (please indicate with X)
Beata	Klimkiewicz	Associate Professor	Institute of Journalism, Media and Social Communication, Jagiellonian University, Kraków, Poland	X

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
Alicja	Jaskiernia	Professor	Institute of Journalism, University of Warsaw (Instytut Dziennikarstwa Uniwersyt
Jędrzej	Skrzypczak	Professor	Faculty of Political Sciences and Journalism (Wydział Nauk Politycznych i Dzien
Maciej	Hoffman	Director General	Press Publishers Chamber (Izba Wydawców Prasy)





