

About 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 pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States 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.

The Monitor's methodology is based on research carried out by national country teams in the 19 countries, except for Malta 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. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, 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. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

Basic Protection	Market Plurality	Political Independence	Social Inclusiveness
Protection of freedom of expression	Transparency of media ownership	Political bias in the media	Access to media for different social and cultural groups, and local communities
Protection of right to information	Concentration of media ownership	Politicisation of control over media outlets	Availability of media platforms for community media
Journalistic profession, standards and protection	Concentration of cross-media ownership	Politicisation of control over media distribution networks	Access to media for the physically challenged people
Independence of national authority(ies)		State advertising	Centralisation of the media system
		Independence of PSM governance and funding	Universal coverage of the PSM and the Internet
		Independence of news agencies	Media literacy

The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.

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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.

1. Introduction

In Portugal there are positive signs on the situation in relation to media pluralism, given that no domain indicates “high risks”. In respect to the legal framework, there are various specific and general rules that aim to safeguard media pluralism. Insofar as implementation is concerned, Portugal has a regulatory body that monitors, *inter alia*, the transparency of media ownership, and the compliance of public service media organisations with their remit.

Recently, the Portuguese legal framework that governs the media sector has been reformed through the enactment of a new legislation that covers media ownership transparency and public service media. Among the changes that have been brought by the new laws is the establishment of the Independent General Council, which is entrusted with choosing the management board of the public service media. Given that this body was established in September 2014, it was deemed to be too early to draw any definitive conclusions on its contributions to media pluralism.

Issues that raise concerns which, as a result, must be considered by the public authorities include the control of cross-media ownership; self-regulation; media independence; and access to the media for the various social and cultural groups and communities that comprise the Portuguese society.

2. Results from the data collection: assessment of the risks to media pluralism

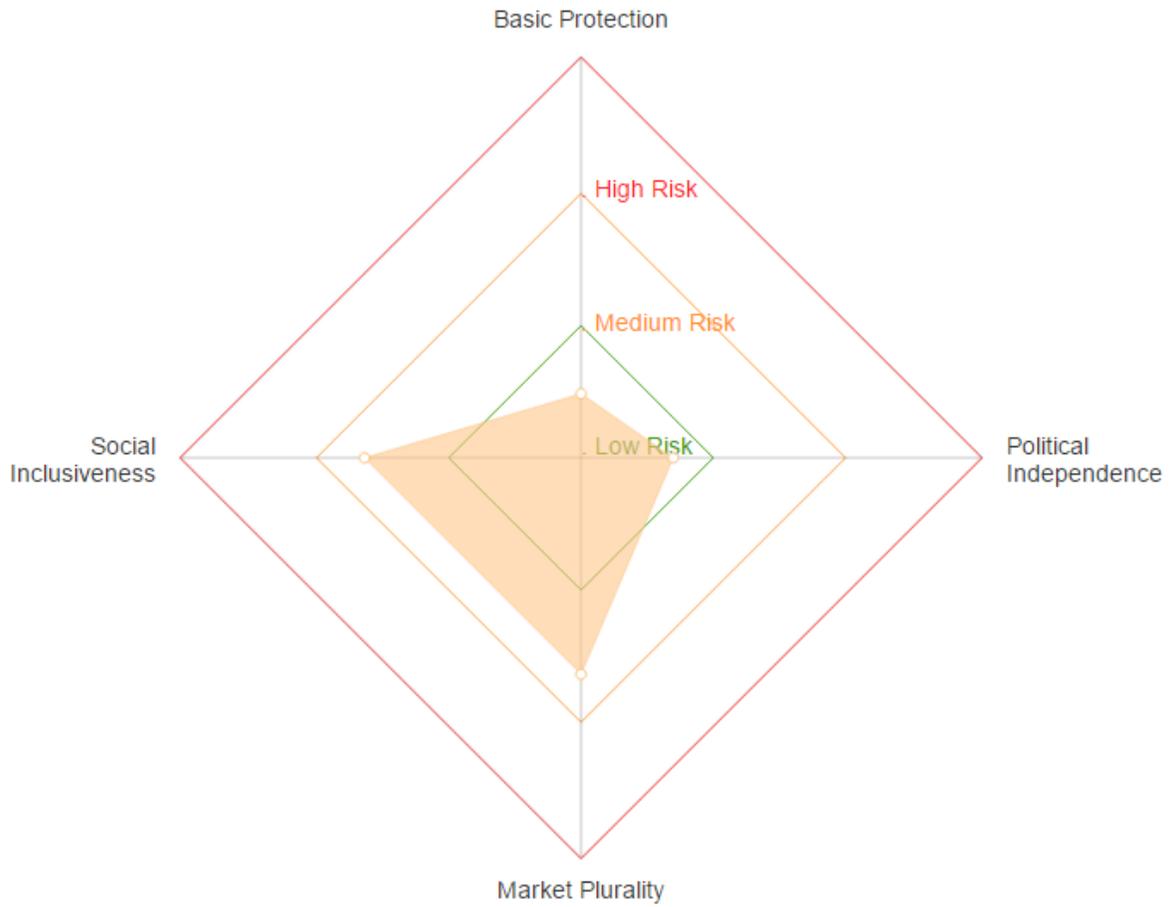


Figure 1 Media Pluralism Monitor 2015 – Portugal, Results by Risk Domain

2.1 Basic Protection (16% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

Indicator	Risk
Protection of freedom of expression	18% risk (low)
Protection of right to information	31% risk (low)
Journalistic profession, standards and protection	17% risk (low)
Independence of national authority(ies)	Negligible

‘Protection of freedom of expression’ (score 18% - low risk). Freedom of expression in Portugal is constitutionally recognised. Regulatory safeguards have been put in place that seem to be being effectively implemented.

Defamation is a criminal offence in Portugal, which may, in principle, pose risks to journalistic freedom. However, neither NGOs nor journalists have reported any relevant cases. With respect to online offences, such as public incitement to violence, hate speech, or hatred for racist and xenophobic purposes, there are several cases (namely, relating to readers’ comments in Portuguese online journalism) which indicate non-compliance with the recommendations¹ of the media authority (Entidade Reguladora para a Comunicação Social-ERC, see below).

‘Protection of right to information’ (31% - low risk). The right to information, freedom of expression, and citizens’ rights are enshrined in the Constitution. There is an appeal mechanism in place in cases where there are refusals to grant access to information, which is managed by an independent administrative entity: the Commission on Access to Administrative Documents (CADA). It appears that this body receives a large number of complaints and/or requests for legal advice. There is evidence, e.g., delays, that this appeals mechanism is not being implemented effectively².

‘Journalistic profession, standards and protection’ (17% - low risk). There are some risks concerning

¹ ERC [Recommendation](#) 1/2012

² See, for instance, the case of the Administrative Court which obliged CReSAP (Comissão de Recrutamento e Selecção para a Administração Pública) to show all documents relevant to public tenders.

editorial independence and/or respect for professional standards, which are partly attributed to a lack of self-regulation and the absence of a Press Council that could check compliance with deontological ethics. In relation to the working conditions of journalists, we have noted irregularities in payments and internships, and, more generally, the precariousness of employment. There are indications (although there is no clear evidence) that commercial entities, or the owners of media companies, influence, or seek to influence, the editorial content that is broadcast or published in the press.³

The ‘Independence of the national authority’ (negligible risk)⁴. In Portugal, the ERC is the regulatory authority for the media. This authority is subject to independence safeguards, including rules that serve to avoid conflict of interest, and it has the power and duty to discharge its mission both impartially and transparently.

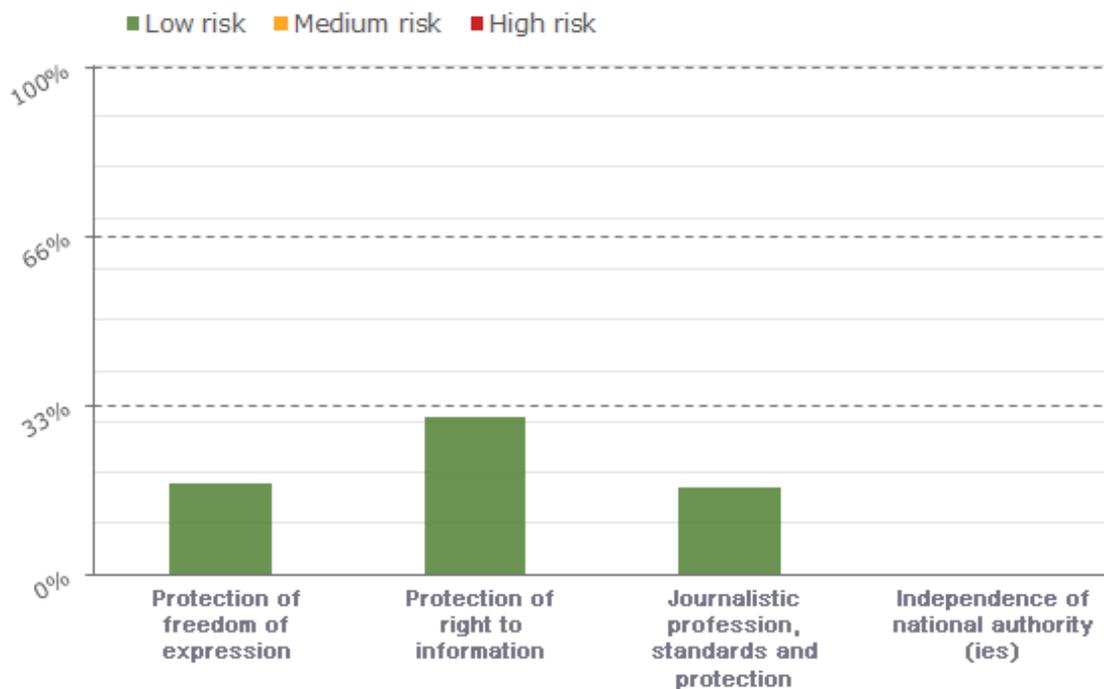


Figure 2 Media Pluralism Monitor 2015 - Portugal, Basic Protection Domain, Results by Indicators

³ Please note that this is a public statement by the president of the ERC - the regulatory entity, See, also <http://www.ionline.pt/330361> (Nota da Direcção do jornal i, 25/09/2013).

⁴ NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).

2.2 Market Plurality (54% risk - 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 regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

Indicator	Risk
Transparency of media ownership	38% risk (medium)
Concentration of media ownership	62% risk (medium)
Concentration of cross-media ownership	62% risk (medium)

‘Transparency of media ownership’ (score: 38% - medium risk). There are sector-specific laws that regulate the media and include transparency provisions. In the broadcasting sector, the provisions are laid down in Laws Nos. 27/2007 and No. 8/2011 (Article 4). In the radio sector, the provisions are laid down in Law No. 54/2010 (Article 3). In the press sector, these provisions are laid down in Law No. 2/99 (Article 16).

The media authority (ERC) has engaged in increasing transparency in the Portuguese media sector, especially in terms of ownership. However, certain media groups refrain from disclosing complete and/or up-to-date information. This situation is expected to improve in the future, given that a new law of media ownership transparency (Law No. 78/2015) was approved in July 2015.

‘Concentration of media ownership’ (score: 62% - medium risk). The MPM analysis shows that, in Portugal, the laws on ownership are mono-media, that is, they regulate the ownership of a specific medium. In broadcasting, there are thresholds that are based on objective criteria. Law No. 8/2011 (Article 4-B) states that no individual or collective entity is authorised to control more than 50% of the total number of licenses for free-to-air broadcasting television.

The law regulating radio sets specific thresholds or limits, which are also based on objective criteria (see Law No. 54/2010, Article. 4). As regards local radio licenses, the law provides that no individual or collective entity is authorised to control more than 10% of the total number of licenses that are granted in the country. For nationwide radio services, no individual or collective entity is authorised to control more than 50% of the total number of programme services that are eligible for the same geographical area and frequency level. For regional radio licenses, no individual or collective entity is authorised to control, in the same regional area, more than 50% of the total number of licenses that are eligible within that geographical limit.

As opposed to television and radio, the Press is based on “laissez-faire” principles and policies. Laws that

regulate the Press do not establish specific limits or thresholds. Regulation introduces qualitative, but not quantitative, standards.

In all the above sectors, excessive horizontal concentration of ownership may be prevented through the enforcement of general competition rules, which take into account the specificities of the media sector.

The Portuguese audiovisual, radio and newspaper markets have, as a result, become highly concentrated according to Top4 measurement, in terms of both market and audience shares.

‘Concentration of cross-media ownership’ (score: 62% - medium risk). In recent decades, there have been significant corporate changes in the media sector that have contributed to higher levels of concentration.

In the television market, free-to-air services are currently provided by only three operators: RTP (State-owned), SIC (owned by the private group, Impresa) and TVI (owned by the private group, Media Capital). RTP is a public service broadcaster and SIC and TVI are private broadcasters.

The radio markets are more diverse, especially at the local level. However, Portugal has only four corporate groups with nationwide radio services: RDP (state-owned), Renascença (owned by the Catholic Church), Media Capital (privately-owned) and Global Media (privately owned).

Similarly to the radio markets, the Press is also more diverse at the local level. However, at the nationwide level, the newspaper markets are controlled by a limited number of privately-owned corporations. The dominant groups are Cofina, Global Media and Impresa. It is very difficult to estimate market shares in the newspaper markets. No complete and/or up-to-date data are available for several of the corporations that dominate the marketplace, for instance, Global Media and Ongoing. This is because, in recent years, these operators have not complied with their information obligations (ERC, 2014 and 2015).

Cross-media concentration in Portugal is partly attributed to the oligopolistic structures of the market. The Impresa Group, the major player, is active in television, the Press and the Internet. The Media Capital Group, another powerful operator, is also active in television, radio and the Internet. The Cofina Group is active in the Press, the Internet and cable television. The Global Media Group is present in the Press, the radio and the Internet. Sonaecom is a major telecommunications group, but it is also the owner of an important newspaper title (*Público*). Newshold is a group that was established recently. It has an increasingly significant presence in the Press markets and has also invested in the Cofina Group.

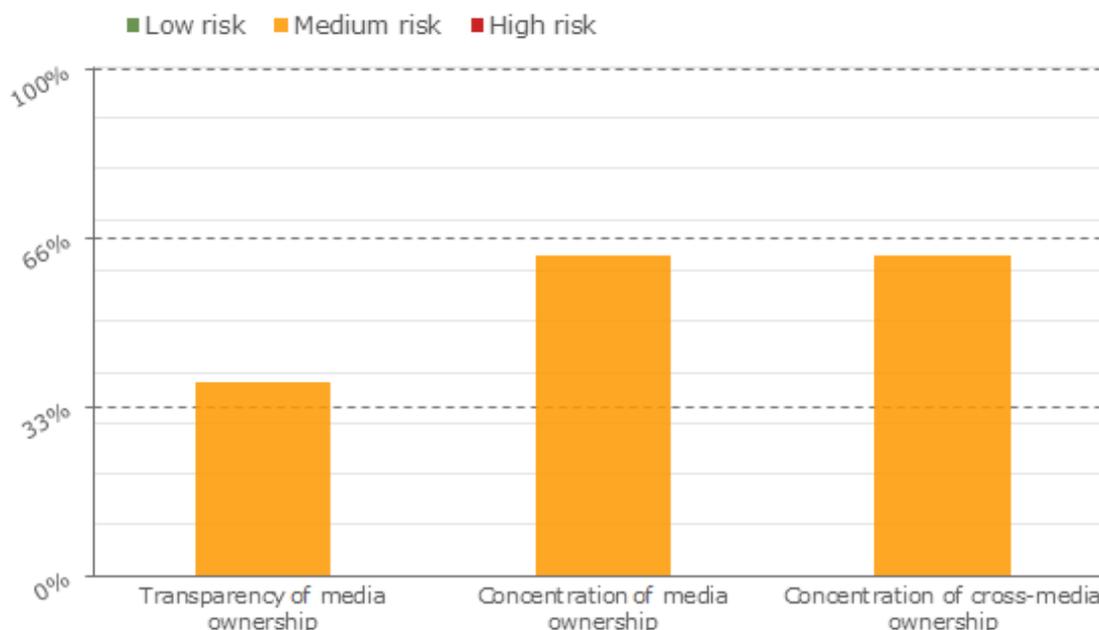


Figure 3 Media Pluralism Monitor 2015 - Portugal, Market Plurality Domain, Results by Indicators

2.3 Political Independence (23% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

Indicator	Risk
Political bias in the media	6% risk (low)
Politicisation of control over media outlets	62% risk (medium)
Politicisation of control over media distribution networks	Negligible
State advertising	17% risk (low)
Independence of PSM governance and funding	Negligible
Independence of news agencies	50% risk (medium)

‘Political bias in the media’ (score: 6% – low risk). There are regulatory safeguards in order to guarantee that, in broadcast news, all of the political viewpoints that exist in the society are represented in a fair, balanced and impartial way. In relation to self-regulatory instruments, there are certain principles in the RTP Ethics Code that guarantee access to the PSM channels for political actors. There is some potential

risk in relation to the proportions of representation during election campaigns, particularly in relation to the small parties, but we still need to see the results of the future application of the new law in relation to this specific matter (Law No. 72-A / 2015, July 23 - Establishes the legal framework for media coverage during election periods).

‘Politicisation of control of media outlets’ (score: 62% – medium risk). There are some problems with the effective implementation of the regulatory safeguards against excessive ownership and/or the control of the media by politicians. In regard to transparency of ownership in the media sector, in some cases we do not know exactly who the Portuguese media owners are. It is difficult to acquire information about just who are the true owners of some media groups. To resolve this issue, as mentioned above, a new Law on the Transparency of the Ownership, Management and Funding of Media Entities, was approved by the Parliament on 2nd July 2015 (Law No. 78/2015, 29 July).

‘Politicisation of control of media distribution networks’ (negligible risk). The MPM analysis indicates that there is no significant risk of the political affiliation and control of media distribution networks.

‘State advertising’ (score: 17% – low risk). In general, there is no evidence of risk, nor of non-transparent rules relating to the distribution of state advertising in Portugal.

‘Politicisation of PSM governance and funding’ (negligible risk). There is no significant risk relating to this issue. As already mentioned in the introduction, the PSM reform still needs to be tested. We will be able to evaluate the outcome of this reform in the coming years.

‘Independence of news agencies’ (score: 50% – medium risk). With regard to the independence of the news agency, we do not have, in practice, any evidence of a pluralism deficit in the Portuguese agency Lusa. The Lusa Agency is, in any case, mostly funded by the State (50% risk).

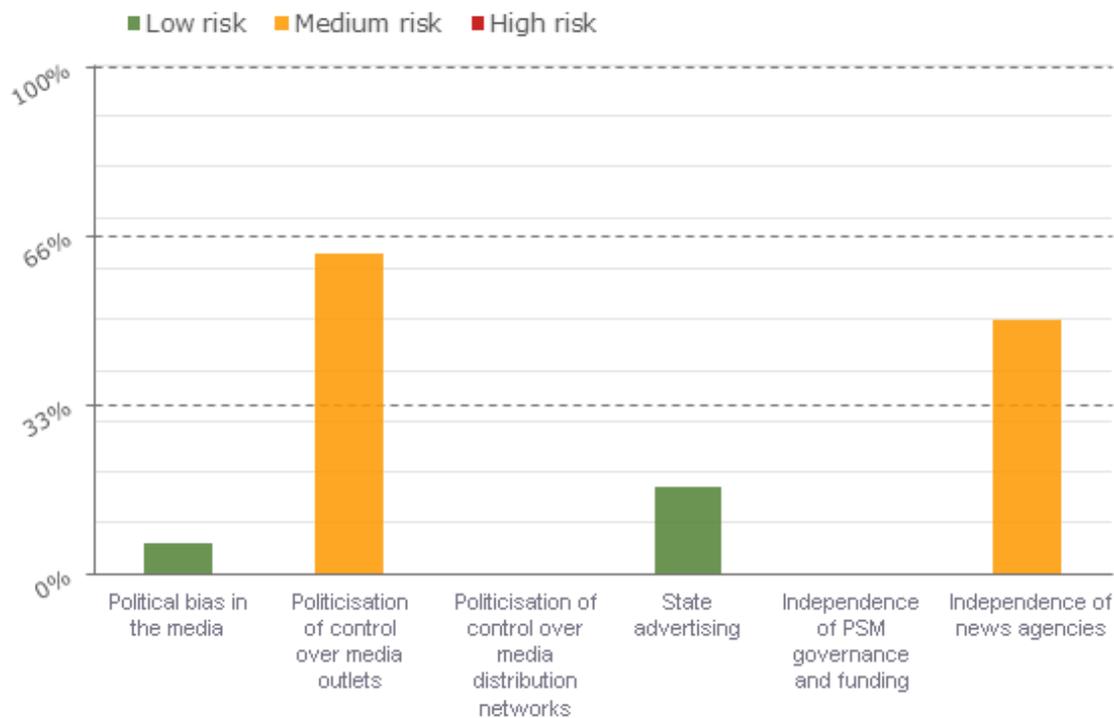


Figure 4 Media Pluralism Monitor 2015 - Portugal, Political Independence Domain, Results by Indicators

2.4 Social Inclusiveness (54% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country's media literacy policy, as well as the digital media skills of the population.

Indicator	Risk
Access to media for different social and cultural groups, and local communities	50% risk (medium)
Availability of media platforms for community media	100% risk (high)
Access to media for the physically challenged people	Negligible
Centralisation of the media system	58% risk (medium)
Universal coverage of the PSM and the Internet	50% risk (medium)
Media literacy	67% risk (high)

‘Access to media for different social and cultural groups, and local communities’ (score 50% - medium risk). The Constitution safeguards the access to airtime on the PSM channels by different social and cultural groups. This is a duty that was assigned to the second PS television channel, RTP2 (Assembly of the Portuguese Republic, 2007). Additionally, in the Concession Contract for Public Service Television, Clauses 7 and 15, which relate to public service television and public service radio respectively, it is stated that two programme services must be specifically aimed at the Azores and Madeira. Clause 11 lays down, in a detailed manner, the obligations of programme services in television, including the minimum requirement for daily regional news programmes (AAVV, 2015).

In practice, we can say that PSM broadcasts, albeit to a limited extent, both regional news programmes and local news. The Regulation Report of the ERC (2014) confirms the practice of access and diversity in RTP2, although it also states that there is limited pluralism (of programmes as well as for social and cultural groups) in the main PSM channel (RTP1).

‘Availability of media platforms for community media’ (score: 100% - high risk). There is no tradition of community media in Portugal and the format is not regulated by the legal framework that is applicable. Community radio projects exist mainly on the Internet (Jedrzejewski & Oliveira, 2015; 255-257).

We must also underline that Portugal has no national minorities, according to the definition used by the MPM2015 (Council of Europe, 2013), although there are "ethnic media" in Portugal, which have, as their target audiences, the immigrant communities in the country.

‘Access to media for physically challenged people’ (negligible risk). There is a well-developed national policy concerning media content access by physically challenged people (Grupo de Reflexão Media e Deficiência, 2011). The obligation to facilitate accessibility for people with disabilities is a precondition for the awarding of the license that is required in order to operate as a public service broadcaster (Bachmeier, 2014: 20).

‘Centralisation of the media system’ (score 58% - medium risk). The Portuguese media system is highly centralised. Despite the absence of exact and updated information, the market shares of the daily newspapers that are published regionally, and of local and regional TV and radio broadcasters appear to be very low, especially if compared with the market shares of the nation-wide media (ERC, 2010, 2009; Davim, 2012). The existent availability of open signal free-to-air channels (both public and private) at the regional level is also “clearly below what could be expected and is desirable” (AdC, 2013: 48).

However, more recently, in 2015, the state implemented a new policy of subsidies for the support of the regional/local press (Decreto-Lei nº 23/2015), which may constitute a positive development for the media system.

‘Universal coverage of the PSM and the Internet’ (score 50% – medium risk). The Constitution, along with the *Television and On-demand Audiovisual Media Services Law 2007* and the *Radio Law 2010* guarantees the existence and operation of a public radio and television service.

However, the process of transition from analogue to digital television (Anacom, 2012), as well as the expansion of the Digital Audio Broadcasting (DAB) network (World DAB, 2015), may indicate risks in relation to accessibility to Public Service Media (PSM), as population coverage stands below 98% in either case.

In respect of broadband coverage, the percentage of broadband network coverage in rural areas is 99% (IHS Inc. & Valdani Vicari and Associati Portugal, 2013), but broadband penetration is only 57% (Eurostat 2013). According to Net Index/Ookai (2015), the average broadband speed in download (33 Mbps) and upload (7 Mbps), can also be respectively considered to be of low and high risks.

‘Media literacy’ (score: 67% - high risk). Policymaking in the domain of media literacy and media education in Portugal appears to be moving in the right direction (Costa et al., 2014: 5-9). However, despite relevant initiatives being taken by academics, civil society, and the media sector itself to promote media education (Jorge et al., 2014: 168-171), we may say that the national policies still have a long way to go. “There is a need for a formal structure dedicated to media education that can transform the fragmentation of projects and initiatives into a multi-stakeholder network with a strategy” (Costa et al., *ibid*: 25).

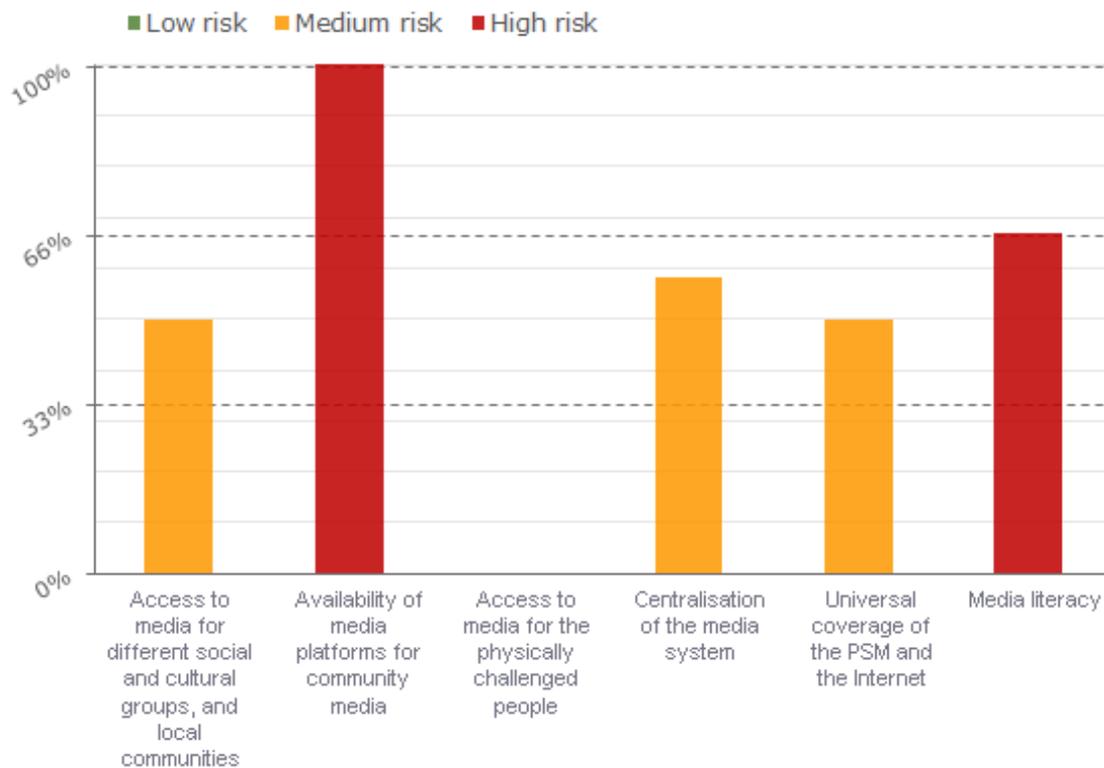


Figure 5 Media Pluralism Monitor 2015 - Portugal, Social Inclusiveness Domain, Results by Indicators

3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

In media legislation, the concept of pluralism refers to several issues, including market plurality, ownership and competition. However, academic and other studies on political pluralism in the media (carried out at a global level, not just in Portugal) lack any analysis of specific content categories, such as the plurality of political voices (i.e., not exclusively within the political spectrum, but also the voices of independent citizens, scholars, entrepreneurs, minorities, ethnic groups, civil associations, and NGOs). Research should give stronger weight to this category of "other voices" in order to better understand the levels of political pluralism in the Portuguese media.

To reinforce the independence of the Portuguese regulatory authority for the media, the authors agree with those concerns that were expressed by Portuguese society, which suggest that the members of the regulatory authorities might be selected and nominated by the President of the Republic.

As regards the high levels of centralisation in the Portuguese media system, the authors recommend that the public authorities make a larger number of open signal/free-to-air channels (both public and private) available at the national/regional levels through the digital terrestrial television system.

Moreover, the authors suggest that the public authorities develop a consistent and long-term strategy in order to reinforce policymaking in the domain of media literacy.

In terms of ownership, the authors recommend the approval of a general media concentration law that:

- (i) sets objective thresholds in order to address cross-media ownership;
- (ii) promotes effective competition in media markets; and
- (iii) protects content diversity in the TV and radio sectors.

The authors consider that the Portuguese public service operators (TV and radio) are necessary in order to overcome potential market failures, such as the lack of cultural programmes, to represent the diverse interests and needs of the Portuguese society and, more generally, to guarantee high programme quality.

Annexe I. List of national experts who were consulted

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