

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

Romanian media is dominated by television. The financial crisis hit the press particularly hard, and this increased the precarious nature of journalistic careers, reducing professionalism and editorial independence to barely recognised principles. The MPM data underline that these essential pillars of media freedom and pluralism are endangered by numerous structural factors in both the private and the public service media.

Practically, no media outlet with a significant audience shows internal pluralism in its editorial content (i.e. excluding op-eds), and external pluralism is driven mostly by the owners, some of whom are covert, highlighting a problem with ownership transparency. There are medium risks to pluralism in all four domains, with the highest risks pertaining to ‘Market Plurality’ issues, especially for the ‘Concentration of cross-media ownership’, as well as for ‘Media literacy’, ‘Politicisation of control of media ownership’, ‘Independence of news agencies’, and ‘Journalistic profession, standards and protection’.

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

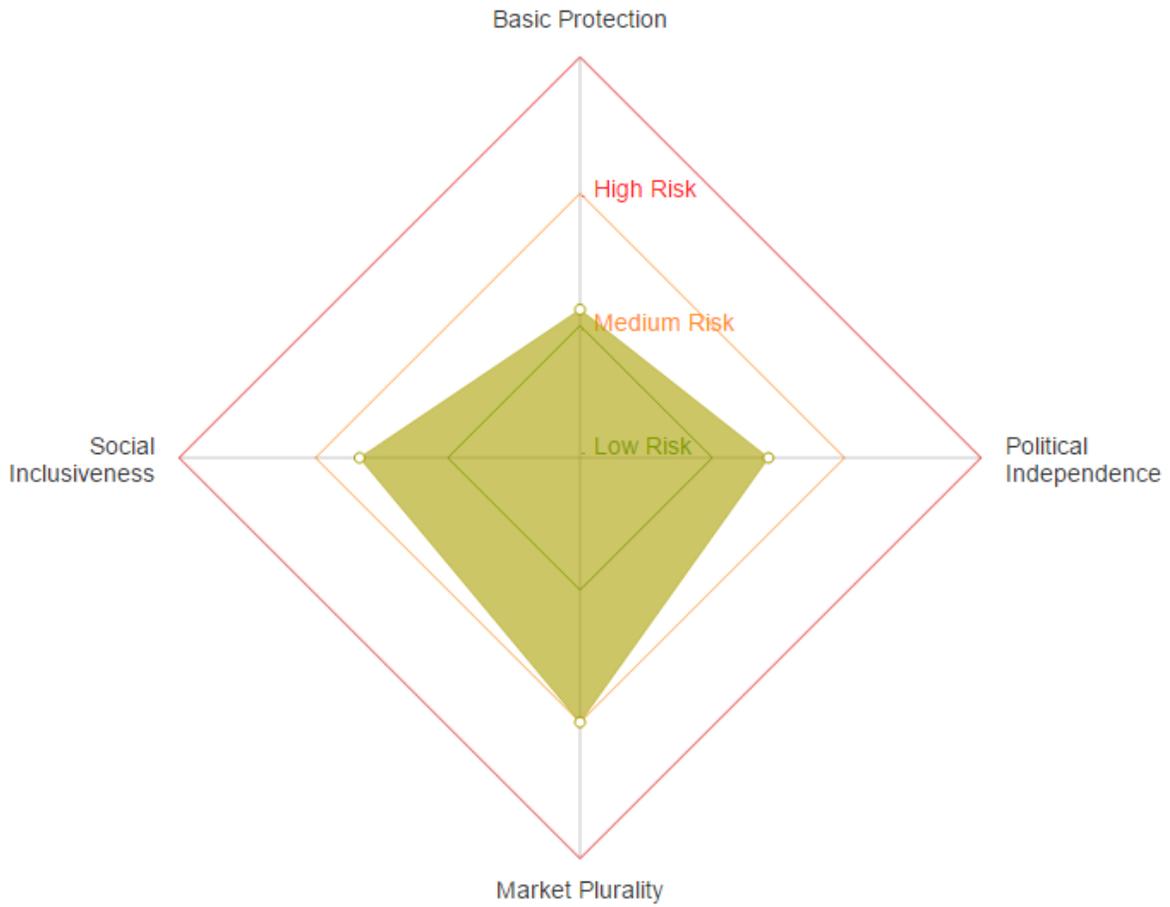


Figure 1 Media Pluralism Monitor 2015 - Romania, Results by Risk Domain

2.1 Basic Protection (37% risk – medium 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	31% risk (low)
Protection of right to information	31% risk (low)
Journalistic profession, standards and protection	67% risk (high)
Independence of national authority(ies)	18% risk (low)

Despite what is an overall solid legal framework, there are issues regarding the effective implementation of the ‘Protection of freedom of expression’ (31% - low risk) and of the ‘Protection of right to information’ (31% - low risk). Although at low risk (18%), the opposite seems to be the case regarding the ‘Independence of national authorities’, which functions relatively well within the given imperfect and incomplete legal framework, with more serious issues pertaining only to the National Council for the Audiovisual (CNA). A particularly high risk in this domain is registered by ‘Journalistic profession, standards and protection’ (67%), due to a set of mutually reinforcing negative factors that put journalism in a very precarious situation, open to instrumentalisation/ external influences, and that is unlikely to produce quality content in the public interest.

Journalists in a precarious economic situation (due to the frequent irregularities in payments and high job insecurity, as well as to a generally difficult economic situation in the media, especially newspapers) do not have either the professional support of journalistic standards/codes of ethics/conduct, which, in Romania, rarely exist in the newsrooms or as part of employment contracts, or because of the legal mechanisms granting social protection to journalists in the case of changes of ownership or editorial line. This takes place in a context that is low on journalistic representation and self-regulation. There are grassroots journalistic associations, but they are rather fragmented (Bajomi-Lázár 2011) and not very visible in the public sphere. We did not find hard evidence that they represent a broad range of journalists, meaning, firstly, a spread across outlets that include the major players and, secondly, a large enough number within each organisation or, at least, in each media domain. It is particularly difficult to estimate precisely, since we do not know how many of the MediaSind¹ members (a federation of trade unions) are

¹ The Romanian Federation of Journalists (FRJ MediaSind) is a federation of trade unions, affiliated to the

journalists, and how many are technical and other employees, or even workers in the cultural sector, and how membership across media outlets has changed since 2012, given the significant changes in the media market in the last three years.² This leaves the fight for journalists' rights in the hands of NGOs, whose very strong and prominent work lacks the legitimacy and weight of a broad based professional association.

Moreover, there are occasional attacks on, or threats to the physical safety of, journalists, threats to their digital safety through occasional surveillance by state institutions, and infringements of the protection of journalists' sources. Attempts to force journalists to disclose their sources, especially by using reasons of national security or public order, which are very broadly and vaguely defined in Romania, are frequently reported. A recent legislative proposal, currently on hold, stipulated harsher penalties for those who disclose information in a criminal case, which drew criticism in relation to the possibility of incriminating both journalists and their sources³.

In terms of the enforcement of regulations relating to freedom of expression, although defamation was decriminalised in 2006, since then, confusion has been created by back and forth decisions on re-criminalisation between the Parliament, the Constitutional Court (CCR) and the High Court of Cassation and Justice. This is a particularly pressing issue, since there are still occasional violations of freedom of expression in Romania, mostly involving local journalists who are unfairly charged with fines for defamation against public authorities or politicians.

National authorities in the fields of competition and telecommunications generally function effectively, given the often incomplete and imprecise regulations which they have to implement, as well as the delays in the application of the appeal mechanisms that are due to long trials ('Independence of national authorities' at low risk)⁴. Party/politically nominated members of the audiovisual media authority (CNA-Council of National Audiovisual) continue to act as party representatives and do not act in light of the mission of the authority. Although there are no final court decisions, the credibility of the CNA was seriously damaged recently by judicial investigations for corruption that involve two of its members,

International Federation of Journalists. In 2012, when The FRJ MediaSind obtained a Court decision stating that it is representative of the "Culture and mass-media" sector, it had 5395 members (employees in mass-media: journalists, typographers, technical and administrative personnel), more than half of them (2909 members) coming from the public service media. In December 2013, FRJ MediaSind united with the Federation of Performing Artists' Unions of Romania (FAIR), and declared that it had 10.000 members from 36 unions in the culture and mass-media fields.

² During the final conference in Florence, a representative of the EFJ commented that the number of affiliates to media trade unions in Romania is rather high. However, their effectiveness is limited.

³ See <http://parlament.openpolitics.ro/politici/proponeri/20421662-1022-451f-bba8-1aa0b5ce28f1> and <http://www.tolo.ro/2014/10/29/in-apararea-surselor-si-in-atentia-lui-victor-ponta>

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).

including its then president, especially as the charges concern their activities at the media authority⁵.

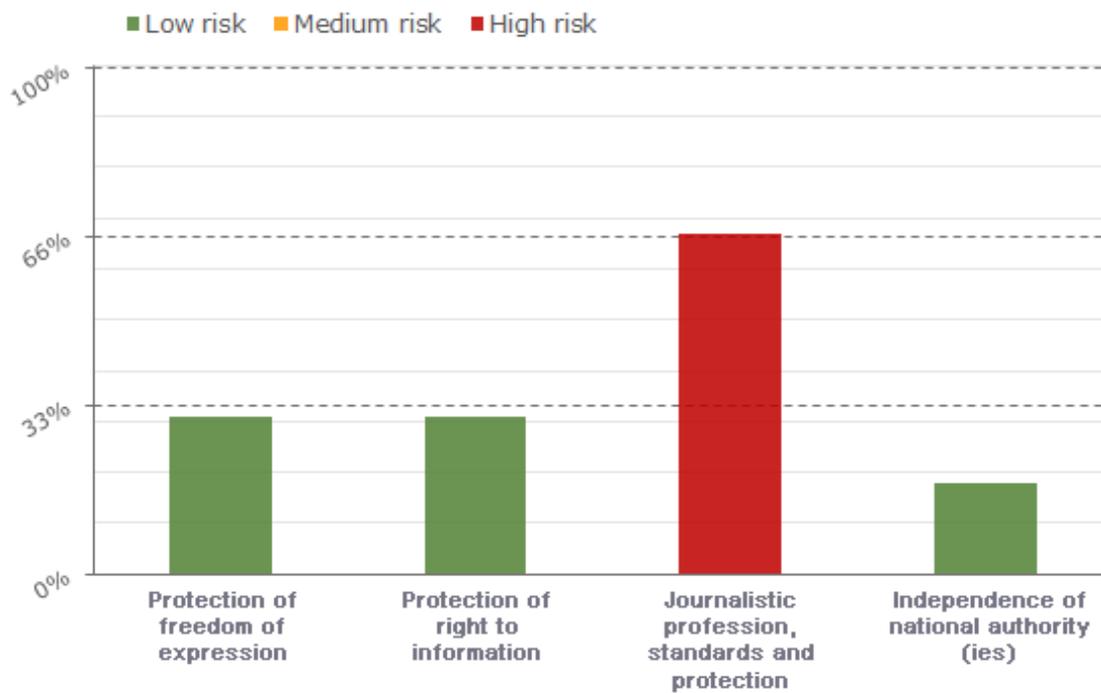


Figure 2 Media Pluralism Monitor 2015 - Romania, Basic Protection Domain, Results by Indicators

⁵ National Anticorruption Directorate (DNA), Press release, 03 July 2015, <http://www.pna.ro/comunicat.xhtml?id=6504>

2.2 Market Plurality (66% 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	61% risk (medium)
Concentration of cross-media ownership	100% risk (high)

‘Market Plurality’ scores highest overall among the four main domains (66%), whilst still registering medium risks, frequently due to a lack of adequate legislation. Due to a lack of legislation on cross-media ownership and of efficient verification and sanctioning mechanisms, combined with a tendency to hide the real ownership, the potential for cross-media monopolies cannot be properly evaluated.

Romania does not have a specific law that makes for the disclosure of the ownership of a media company, unless it is listed with the Stock Exchange or falls under the requirements of the National Audiovisual Law (indicator: ‘Transparency of media ownership’: 38% - medium risk). However, all Romanian companies must register their ownership structure with the publicly accessible National Trade Register Office. Still, the real owners sometimes remain undisclosed, or their tracking is lost in multiple companies that own shares in media companies. The results for this indicator show that the laws are not effective in disclosing the real owners of the media outlets: the extent of hidden ownership has not been evaluated in this monitoring exercise.

There is no specific limitation in the Romanian legislation concerning the ownership of print media and the internet sector, nor is there an efficient sanctioning power in regard to media ownership concentration in the area of radio. There are no effective measures preventing cross ownership, except for general media pluralism safeguards concerning the audiovisual sector. Largely due to the legal framework, sanctioning is not efficient and the verification mechanism is imperfect.

In evaluating the ‘Concentration of cross-media ownership’ between the relevant media in Romania (100% - high risk), some particularities need to be taken into account, mainly that data about the financial performances of the Top8 owners is available mostly in a consolidated form, which prevents the assessment of their media business. This is the case with one of the biggest media owners, RCS&RDS, which has an important cable and telecommunications division, for which it doesn't provide separate

information.

Same problems persist in relation to the market share (in terms of revenues) of the top audiovisual media owners, radio, newspapers and ICPs ('Concentration in media ownership' – 61% medium risk). However, data are available for market share in terms of audience and readership, where the concentration for the audiovisual market is at 54%, radio is at 62%, newspapers at 74% and ISPs at 66%. Not surprisingly, the data underlines the fact that the newspaper sector - the media sector worst hit by recession, has contracted so much that it has led to a market concentration of national dailies.

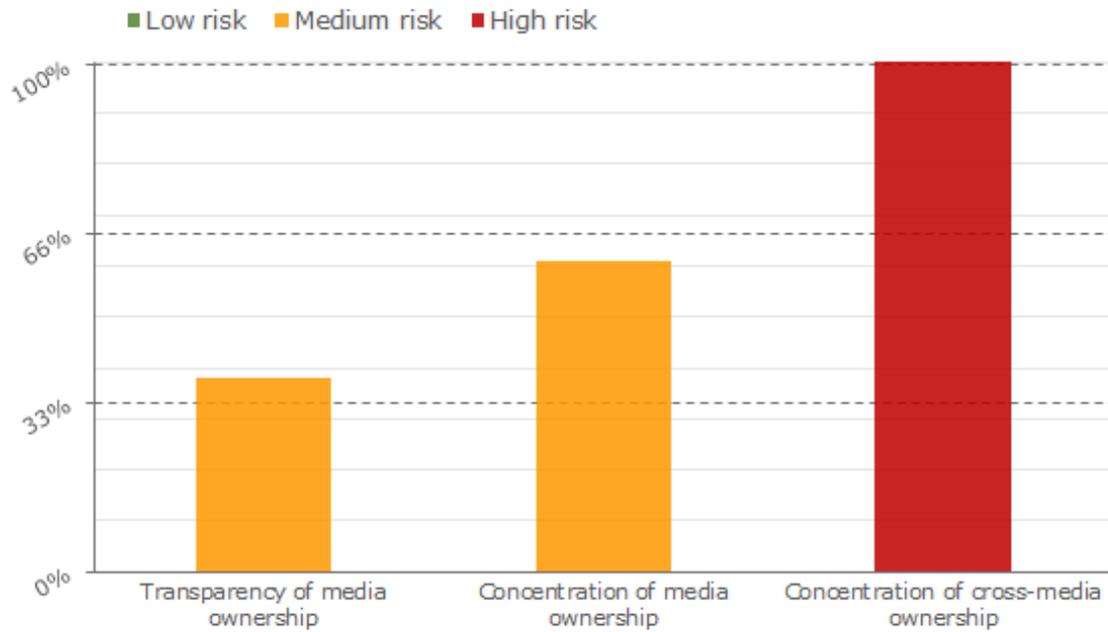


Figure 3 Media Pluralism Monitor 2015 - Romania, Market Plurality Domain, Results by Indicators

2.3 Political Independence (47% risk - medium 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	36% risk (medium)
Politicisation of control over media outlets	81% risk (high)
Politicisation of control over media distribution networks	negligible
State advertising	58% risk (medium)
Independence of PSM governance and funding	69% risk (high)
Independence of news agencies	38% risk (medium)

‘Political Independence’ faces a medium risk (47%) in Romania, with the highest risks being related to issues of the ‘Politicisation of control of media outlets’ (81%), and the ‘Independence of PSM governance and funding’ (69%). Lacking transparency and being (ab)used to make or break media outlets, ‘State advertising’ (58%) represents a medium risk, just as the ‘Political bias in the media; (36%) and the ‘Independence of news agencies’ (38%) do. Finally, the indicator ‘Politicisation of control of media distribution networks’ presents a negligible risk.

The public TV channel (TVR) scores better than commercial media in regard to the indicators that are related to political bias. However, despite the fact that TVR offers a more balanced representation of political viewpoints than most commercial channels, at least in quantitative terms, several Romanian media experts⁶ have suggested that editorial, or more subtle types of bias are present (PSM bias, Electoral campaigns). Except for the representative of the broadcasters’ association⁷, all the other experts consulted agreed that politicians who own media outlets are prone to influence the editorial content so as to further their own agenda. Both indicators of high risk (‘politicisation of control of media outlets’, and

⁶ Răzvan Martin (FreeEx Project Coordinator, ActiveWatch), Manuela Preoteasa (Publisher & Founder, EurActiv Romania; lecturer for the Faculty of Journalism and Communication Sciences, the University of Bucharest) made specific observations regarding editorial interference in the PSM news and electoral coverage. Dorina Rusu (Council Member, CNA) pointed out that: “there were several violations of the law on the apparition of the candidates in the public television programs in 2014’s presidential campaign, but they were a few and not so important to change the results of the elections”. Other experts who agree that the regulatory safeguards are only partially implemented are: Ioana Avădani (Executive Director of the Centre for Independent Journalism), Mihnea Vasiliu (General Manager of Ringier Romania), Ovidiu Gherasim-Proca (Lecturer, Alexandru Ioan Cuza University).

⁷ Romanian Association for Audiovisual Communications (ARCA).

‘Independence of PSM governance and funding’) refer to such mechanisms of ownership interference with editorial content, a practice that was previously documented and possible in Romania due to a lack of effective regulatory safeguards in respect of both the privately-owned and public media.

In the private/commercial media, there is very little, if anything, which can prevent politically affiliated owners from interfering with the editorial content, for instance, by self-regulatory measures, since the codes of ethics in the largest media companies are created either by the management, or by the owners, and such codes are not duly implemented in practice. In a recent corruption investigation, prosecutors accused several politicians and public officials of having paid two of the main TV channels to tone down the critical coverage relating to a “protection fee” that was covered up as being for advertising services (Departmental Social – Mediafax 2015). Moreover, there is no official aggregated data about the ownership or political affiliation of TV, radio or newspapers that could reliably and transparently estimate the scale of media politicisation (‘accessibility to data on media ownership’), not least given the possible issues with covert ownership by political or commercial interests⁸.

The PSM is at a high risk of politicisation (‘Independence of PSM governance and funding’) due to structural factors that are related to a precarious funding situation (the PSM are dependent on yearly budgets and the government set license fee, without clear legal requirements relating to the amount, or the reasons for tinkering with it), which is currently further marred by high ‘historical’ debts. Moreover, the legal procedures regarding the nomination and dismissal of the management and board of the PSM do not encourage long term planning and evaluation, but do allow yearly dismissal by Parliament through the rejection of the annual report, without much justification or deliberation.

News agencies are less dependent on political groupings, though the variables do not allow an evaluation of their partisan content. Regarding the largest commercial news agency, Mediafax, recent judicial investigations of fiscal irregularities and potential covert ownership raise questions about the actual situation, and especially about potential future developments.

Existing reports, confirmed by the experts’ evaluations, show a medium risk in regard to state advertising. Several reports of the Centre for Independent Journalism (CJI) show the complexity of the matter and the ways in which the current legislation allows public authorities to distribute advertising funds based on criteria that lack transparency⁹. Major difficulties in compiling full data on the percentage of state advertising within the budgets of various media outlets limit the possibilities of checking any correlations with audience share, ownership, or content.

Even in the case of the negligible political risks related to the media distribution networks, one needs to remain aware of the indirect threat to print media outlets that is posed by newspaper distribution networks

⁸ See <http://www.tolo.ro/2015/10/20/purtatorul-de-cuvint-al-sri-a-negociat-cu-elena-udrea-un-contract-de-10-000-de-euro-in-campania-electoral/>

⁹ See <http://www.cji.ro/publicitatea-publica-tot-mai-putina-transparenta-tot-mai-multa-neincredere-2/>; <http://www.cji.ro/cji-lanseaza-raportul-piata-de-publicitate-publica-din-romania-accelerati/>

going bankrupt with huge debts.. The newspapers consequently get in serious financial difficulties, which, in turn, pose a significant threat to their editorial independence and even to their existence.

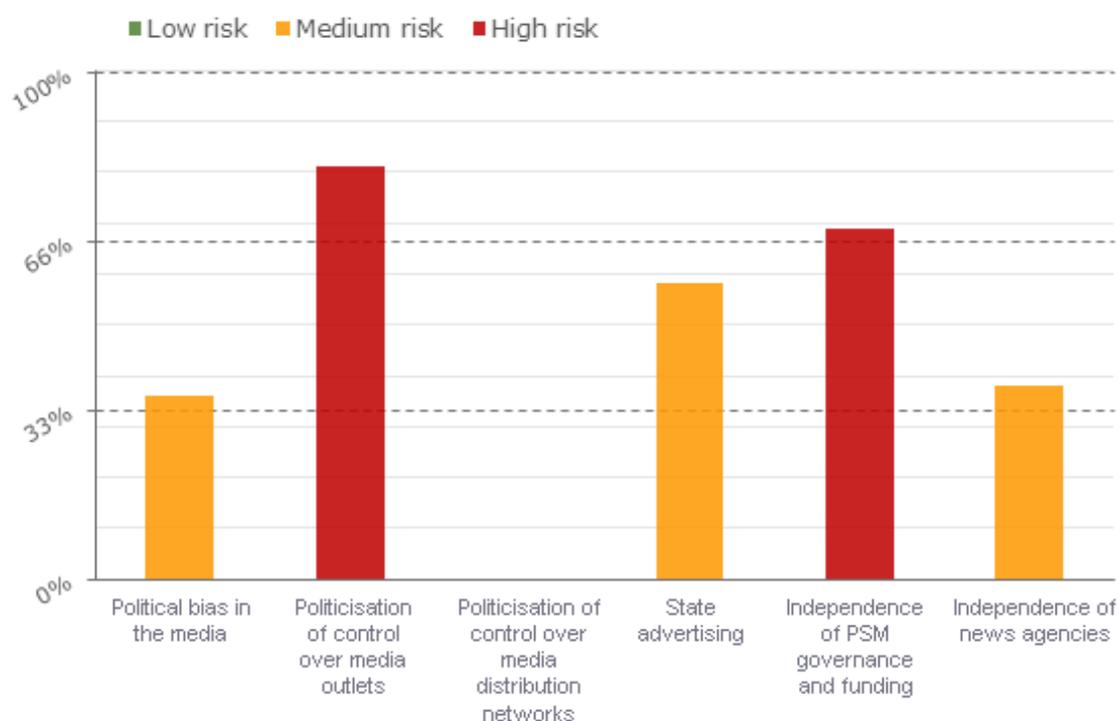


Figure 4 Media Pluralism Monitor 2015 - Romania, Political Independence Domain, Results by Indicators

2.4 Social Inclusiveness (55% 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	56% risk (medium)
Availability of media platforms for community media	51% risk (medium)
Access to media for the physically challenged people	50% risk (medium)
Centralisation of the media system	65% risk (medium)
Universal coverage of the PSM and the Internet	25% risk (low)
Media literacy	83% risk (high)

Of the six indicators, one presents a high risk ('Media literacy', 83%), and one a low risk ('Universal coverage of the PSM and the Internet', 25%), while the others show a medium risk.

The score on 'Media literacy' (83%) is driven by low internet use and digital skills, which are related to the country's level of development. There are no policies being systematically implemented by the authorities for media literacy, though steps have been taken to provide basic digital skills. Starting from 2004, Romania made efforts to include digital skills in the national school curriculum, through 'Information and Communication Technology' courses. However, the more active interest to promote and develop media literacy lies with the non-formal educators in the NGOs and in some training centres, often in collaboration with the Ministry of Education and Scientific Research (e.g., The introduction in 2004 to the national high school curriculum of an optional course "Competence in the Mass Media" at the initiative of ActiveWatch; a collaboration between the Ministry and Save the Children Romania for the responsible use of the Internet, starting in 2011). State institutions remain focused on digital skills and e-learning, largely disregarding the development of a media literacy policy.

The 'Centralisation of the media system' scores highest among the medium risk indicators (65%), due both to legislation gaps and to the rather low audience shares of the different media channels at the local and regional levels. The main regulatory safeguards that support local and regional channels are the requirement that broadcasting distributors include, in their regional/local offer, at least 2 regional and 2 local programmes, as part of the "must carry" rule, as well as the provision of subsidies for regional/local PSM. Daily local newspapers take up around 30% of the entire newspaper market. Local and regional TV stations have only around 6% of the market share.

The policy for 'Access to media for physically challenged people' also poses a medium risk to media pluralism (50%). Legislation granting the right of access to audiovisual media services for people with hearing disabilities was adopted in 2014. In 2015, only six of 12 national TV stations, and 49 of the 189 local TV stations that were monitored by the CNA had introduced sign language.

'Access to media for different social and cultural groups, and local communities' is not guaranteed by law, which poses a medium risk to the diversity of the media (56%). However, the denial of access is penalised by the anti-discrimination legal framework if it is reported to the National Council for Combatting Discrimination (CNCD).

The 'Availability of media platforms for community media' (low risk, 31%) is mostly ensured through regulatory and policy safeguards concerning minority media. Among the policy measures that are aimed at supporting minority media are: the inclusion of special programmes in minority languages on the grids of both public radio and TV stations, and subsidies for newspapers in minority languages. However, as the experts underline, minority media face the same kind of problems as the rest of the Romanian mass media, in terms of independence. These problems arise from the political and economic context, rather

than from belonging to a minority.

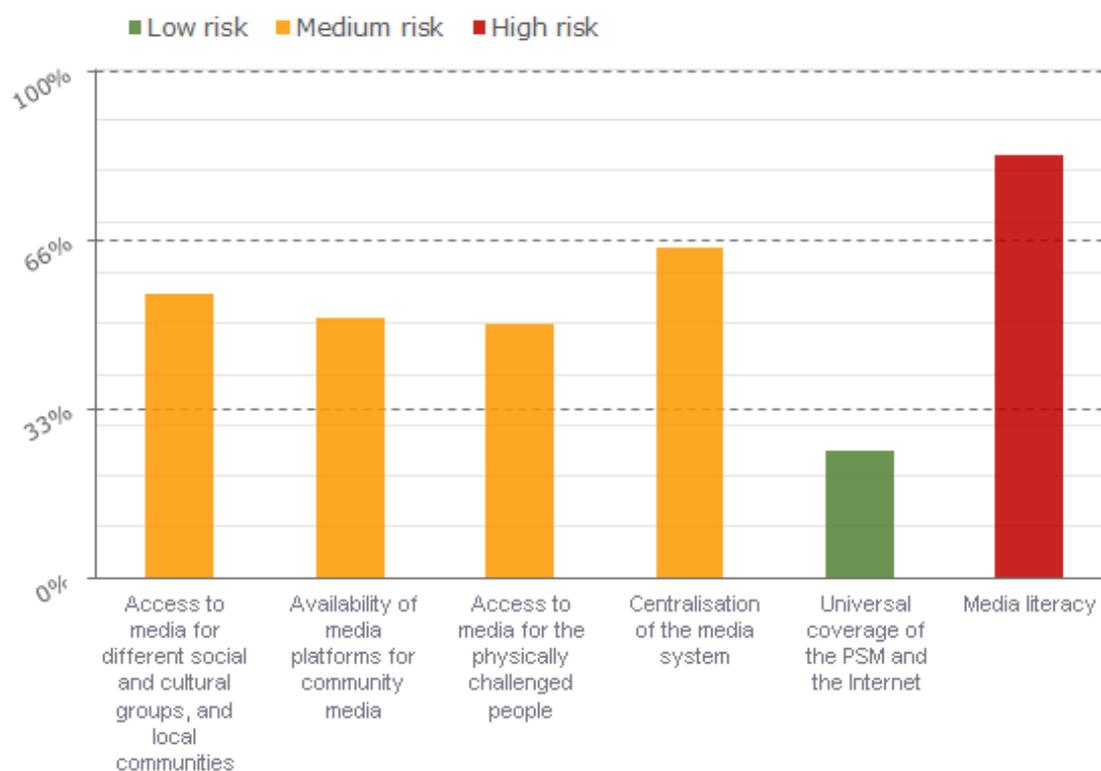


Figure 5 Media Pluralism Monitor 2015 - Romania, Social Inclusiveness Domain, Results by Indicators

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.

The main risks come from the lack of mechanisms in the Romanian media to ensure editorial independence and journalistic professionalism, which are, in turn, significant pillars of media pluralism. Threats come from the use of media outlets as political tools, the frequent interference of owners in the editorial content, both in the private sector and in PSM, with journalists in a precarious situation economically, as well as in terms of professional and personal integrity. The factors that lead to these outcomes are interrelated and are often endogenous to issues of state capacity and general conceptions of professionalism and specialisations in the country.

We have four recommendations at this point. Firstly, given the lack of any provisions in terms of cross-media ownership, we recommend specific legislation to tackle this issue and, more generally, a policy discussion regarding transparency of ownership, not just illegal covert ownership, but ownership by companies abroad which have multiple unknown shareholders; specific requirements for disaggregated financial reporting by companies that also includes content producers, and easier access to state advertising data, for instance, collated data on state advertising per media outlet.

Secondly, since the ‘Independence of PSM governance and funding’ was shown to be problematic, a more general overhaul of PSM funding and governance will be necessary and this should involve a wide, well designed consultation that would ensure both an informed and an inclusive debate. More specifically, given the clear evidence about PSM funding in relation to the legal framework for the funding of PSM going clearly against known good practice to ensure independence, a fairly narrow change would be to legally remove the decisions on the allocation of state funding and on the quantum of the license fee from government, and to make it a multi stake-holder decision (Parliament, President, Audiovisual Council, etc.) and to have a multi-year plan.

Thirdly, the politicisation of the boards of the PSM (PSM Management), as well as of the CNA, are probably not due to the appointment of the boards by political actors (Parliament, Presidency, etc.), which is a common practice, but to the fact that these board members do not act as guarantors of the public interest and of the law, but as political delegates for those who nominated them. We would recommend adding more specific provisions to ensure that party appointees have a duty to act as professionals in the public interest, which would mean that the boards enjoy a pluralism of views that is naturally coloured by their political leanings, but that is not directed and driven by narrow partisan interests. These would be similar to those provisions that have contributed to the depoliticisation of the Competition Agency, or of other, better functioning, arms-length agencies, and more research will be needed to see how these were effectively implemented.

Finally, since the most complex risks come from the precarious nature of journalism and self-regulation is a preferred channel, in this domain, our recommendations point to legal incentives only in respect of a legal regulation of the separation between editorial decisions and management/ownership, which was explicitly considered unnecessary, and even inappropriate, by the representatives of the ownership in our expert panel.

Annexe I. List of national experts who were consulted

Răzvan Martin

ActiveWatch

Manuela Preoteasa

EurActiv

Mihnea Vasiliu

Ringier

Ovidiu Gherasim Proca

Alexandru Ioan Cuza University

Ioana Avădani

Centre for Independent Journalism (CJI)

George Chiriță

Romanian Association for Audiovisual Communications (ARCA)

Dorina Rusu

National Audiovisual Council of Romania (CNA)

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