

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, THE REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2020

Country report: Poland

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**Research Project Report**

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# 1. About the project

## 1.1. Overview of the Project

The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 2020. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, the Republic of North Macedonia, Serbia and Turkey. This project, under a preparatory action of the European Parliament, was supported by a grant awarded by the European Commission to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

## 1.2. Methodological note

### Authorship and review

The CMPF partners with experienced, independent national researchers to carry out the data collection and author the narrative reports, except in the case of Italy where data collection is carried out centrally by the CMPF team. The research is based on a standardised questionnaire developed by the CMPF.

In Poland the CMPF partnered with Beata Klimkiewicz (Journalism, Media and Social Communication, Jagiellonian University), who conducted the data collection, scored and commented on the variables in the questionnaire and interviewed experts. The report was reviewed by the CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts). For a list of selected countries, the final country report was peer-reviewed by an independent country expert.

Risks to media pluralism are examined in four main thematic areas: Fundamental Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area (see Table 1).

<b>Fundamental Protection</b>	<b>Market Plurality</b>	<b>Political Independence</b>	<b>Social Inclusiveness</b>
Protection of freedom of expression	Transparency of media ownership	Political independence of media	Access to media for minorities
Protection of right to information	News media concentration	Editorial autonomy	Access to media for local/regional communities and for community media
Journalistic profession, standards and protection	Online platforms concentration and competition enforcement	Audiovisual media, online platforms and elections	Access to media for women
Independence and effectiveness of the media authority	Media viability	State regulation of resources and support to media sector	Media Literacy
Universal reach of traditional media and access to the Internet	Commercial & owner influence over editorial content	Independence of PSM governance and funding	Protection against illegal and harmful speech

Table 1: Areas and Indicators of the Media Pluralism Monitor

## The digital dimension

*The Monitor does not consider the digital dimension to be an isolated area but rather as intertwined with traditional media and existing principles of media pluralism and freedom of expression. Nevertheless, the Monitor also extracts digital-specific risk scores and the report contains a specific analysis of risks related to the digital news environment.*

## The calculation of risk

*The results for each thematic area and indicator are presented on a scale from 0 to 100%.*

*Scores between 0 and 33%: low risk*

*Scores between 34 to 66%: medium risk*

*Scores between 67 and 100%: high risk*

With regard to indicators, scores of 0 are rated 3% while scores of 100 are rated 97% by default, to avoid an assessment of total absence or certainty of risk.

**Disclaimer:** The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2021 scores may not be fully comparable with previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2021, soon available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

## 2. Introduction

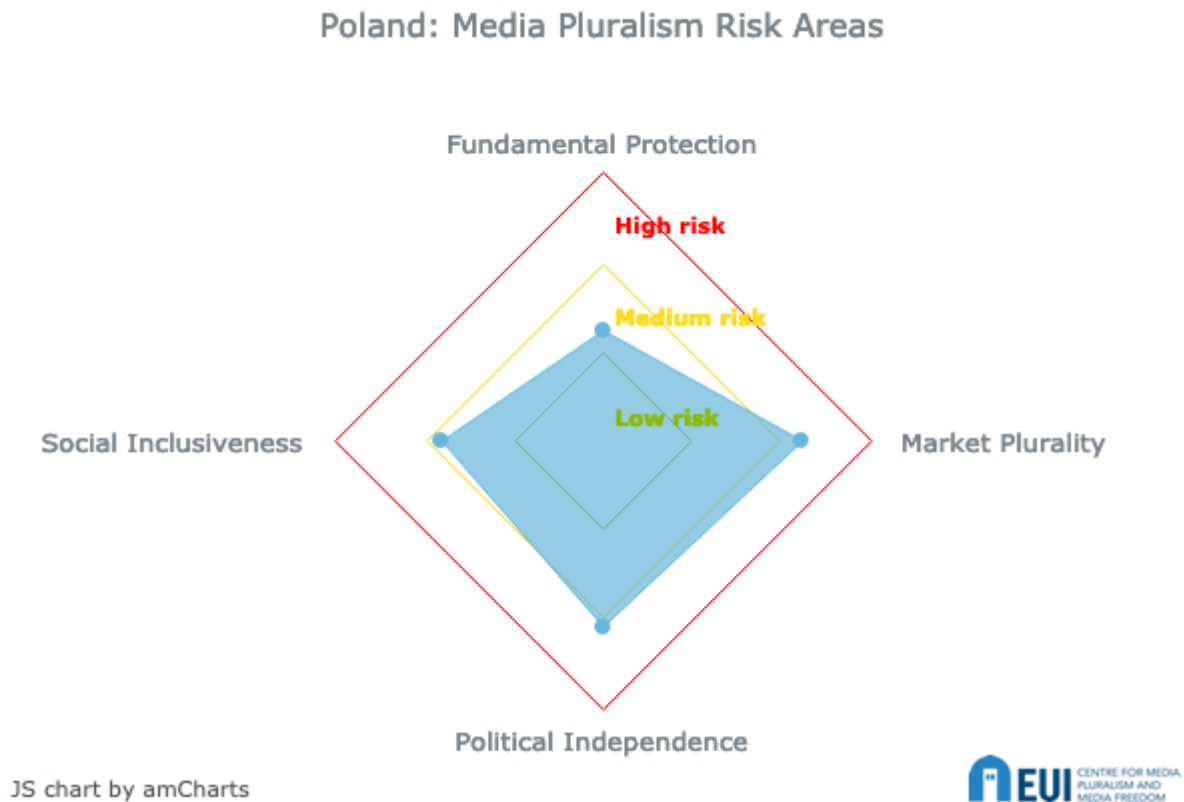
- **Population:** According to the Central Statistical Office (GUS), Poland's area of 312,685 square kilometres was inhabited by a population amounting to 38.24 million in January 2021 (GUS, 2021a).
- **Languages:** The official language as recognised by the Polish Constitution is Polish (The Constitution of the Republic of Poland, Article 27).
- **Minorities:** An ethnic and linguistic structure of the population is relatively homogenous, with 97% of citizens identifying with a Polish nationality (GUS, 2011). The state officially recognises nine national minorities, four ethnic groups, and one community using the regional language (Kashubian) (the 2005 Act on national and ethnic minorities and on the regional language). In addition, the Central Statistical Office (GUS) estimates that as of June 2020, Poland was inhabited by 2.106 million foreigners, among which the largest groups were Ukrainians (1.351 million), Belarussians (105.41 thousand) and Germans (77 thousand) (GUS, 2020).
- **Economic situation:** Until the COVID-19 pandemic hit Poland, the economy was marked by a steady growth of GDP averaging 4.2% per annum between 1991 – 2020. For almost three decades, the Polish economy benefited from competitiveness in the EU labour market, prudent macroeconomic policies and access to EU funds (World Bank, 2020). In 2020, the recession was recognised by GUS. The decrease of real GDP in 2020 was 2.8% compared with 2019 (GUS, 2021b). Still, according to World Bank experts, the Polish economy seems to be more resistant to the pandemic crisis than others in the region (ntesfrompoland.com, 2020).
- **Political situation:** In 2020, presidential elections were held in Poland. A narrow majority of votes (51% ) was secured by incumbent Andrzej Duda (linked to the governing Law and Justice party) against Warsaw mayor Rafał Trzaskowski – who was backed by the main opposition grouping the Civic Platform (PO). Andrzej Duda's victory gave the governing United Right coalition strong backing for the next three-year run. At the same time, a closely contested result proved a deep polarization of the Polish society cutting across political and ideological lines.
- **Media market:** The Polish media landscape is composed of strong and concentrated TV networks, which dominate news provision, weakening, but still influential opinion-forming newspaper groups, growing news portals and start-ups offering journalistic commentary, investigations and analysis. Proportions of both foreign and domestic capital and ownership (both EU and US-based) in the media sector are quite significant, though at the end of 2020, a large Polska Press group (owned until then by German Verlagsgruppe Passau) was acquired by the state-owned Orlen company.
- **Regulatory environment:** Since 2015, the governing coalition has conducted a widely disputed overhaul of the judicial system. The implications for freedom of the media and media regulation are far-reaching as judicial appointments have become more exposed to political pressure and control. A number of recently proposed or implemented regulatory instruments contributes to further polarization of the news media landscape. For example, the regulated state support for the private media sector in Poland has been minimal, but funding flows through other tools, in particular state advertising, has extensively supported the rightwing (so-called "identity") press groups (Kowalski, 2020). As of 2020, Poland has not introduced digital tax, but in February 2021, the government proposed a bill eventually introducing a levy on advertising revenues of a large array of media companies, hitting

disproportionately news providers against large digital platforms (Klimkiewicz, 2021).

- **COVID-19:** The COVID-19 pandemic unprecedently tested life and economic conditions in Poland. Since the first case of the disease was confirmed in March 2020, Poland underwent three pandemic waves with peaks in May 2020, November 2020 and April 2021. The government introduced the state of epidemic emergency in March 2020, followed by the state of epidemic and increased lockdown measures applied in periods of infection growths. While the Polish government activated the so-called **"Anti-Crisis Shield"** to counter the economic effects of the coronavirus pandemics (The Anti-Crisis Shield, 2020), economic performance of many media companies in Poland was severely affected by the decrease in advertising revenues.

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

The 2020/2021 MPM measurement shows that media pluralism in Poland continues to face medium risks in the areas of Fundamental Protection (41%) and Social Inclusiveness (60%), while the areas of Political Independence (69%) and Market Plurality (74%) are challenged by a high risk.



Media users in Poland generally enjoy a diversity of news services reflecting a variety of opinions. The news media landscape is, however, increasingly polarised. News coverage often brings different and even conflicting narratives of political and social reality. All MPM areas have been significantly impacted by the COVID-19 pandemic, albeit the area of Market Plurality stood for the hardest test. Overall advertising revenues in Poland decreased notably. Some news media companies had to limit working time and salaries and even stop their publishing initiatives. On 10 February 2021, most private news mainstream media groups went on strike to protest against a draft tax law that would hit some news media producing original content harder than e.g. digital platforms (Ministry of Finances, 2021).

- **Transparency of media ownership and governmental interference**

Alongside problematic issues unresolved from the past (e.g., eroding judicial independence), some recent regulatory trends and forms of state intervention contribute to structural asymmetries and to the absence of transparency. These include disproportionate and opaque distribution of state advertising and other forms of financial support along political lines. Hit by advertising revenue losses, Polska Press Group (formerly owned by German Verlagsgruppe Passau) was sold to the state-owned oil company Orlen. The takeover was swiftly approved by the competition authority (UOKiK) even though it sustained a monopoly on the regional and local press market. In April 2021, Polish Court of Competition and Consumer protection responded to the appeal brought the Commissioner for Human Rights and ruled that antitrust approval of PKN Orlen's takeover of Polska Press should be suspended (UOKiK, 2021a, c).

- **PSM and Media Regulatory Authorities**

Growing partisanship of PSM, also influencing the quality of information during electoral campaigns, remains one of the highest risks in the field of Political Independence (83%). Insufficient safeguards for the independence of media regulatory authorities (KRRiT and RNM) continue to translate into shortcomings of regulatory performance, particularly as regards monitoring of PSM performance.

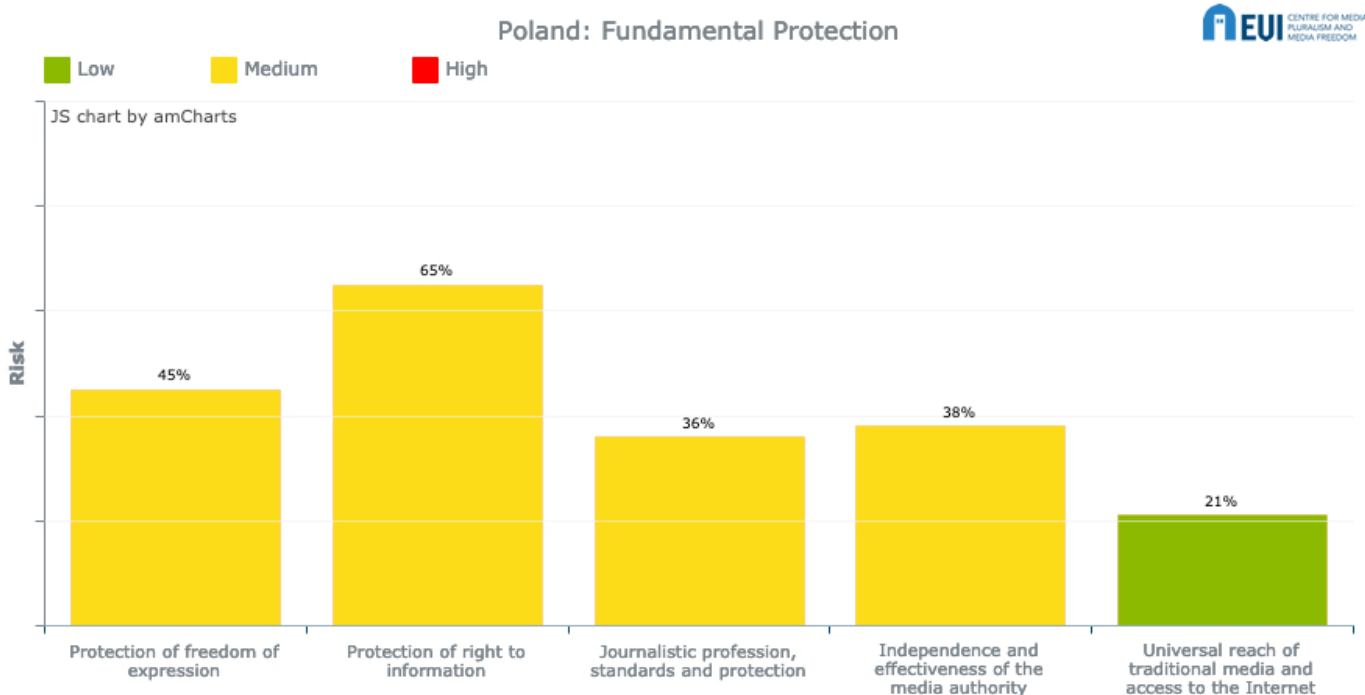
- **Framework for journalists' protection**

Due to pending and controversial judicial reforms, unrestricted journalistic performance more critically depends on the effectiveness of self-regulatory measures. These, however, have not been implemented effectively in Poland due to the growing polarization and fragmentation of the journalistic community. Recently, there has been a visible increase in attacks, abuses of power, lawsuits or warning letters addressing journalists and newsrooms (Press.pl, 2020b). The COVID-19 pandemic has amplified difficulties in working conditions. Repeated lockdowns and changed newsroom routines caused more work for journalists and cuts in payment (PAP, 2020; Zbytniewska, 2020).

In the 2020/2021 MPM measurement, only one indicator detects low risk: the indicator on the universal reach of traditional media and access to the internet (21%) in the area of fundamental protection.

### 3.1. Fundamental Protection (41% - medium risk)

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



The highest risk in this area manifests in the indicator on the protection of the right to information (65%) and protection of freedom of expression (45%).

One of the greatest structural threat detected by **the indicator on the protection of freedom of expression** (45%) are consequences of the pending overhaul of the judicial system. Putting judicial appointments under political control makes journalists less certain about potential legal spin-offs of their criticism and coverage of controversial issues. Defamation remains a criminal offence punishable by Article 212 of the Criminal Code. Although most of the punishments result in fine or community service, there have also been cases in which the courts decided about a suspended sentence of deprivation of liberty or ban from working in media for a certain period of time (e.g. the case of Anna Wilk-Baran, [press.pl](#), 2020a; CoE, 2019).

A higher risk than in the previous year, scored by **the indicator on the protection of the right to information** (65%), stems from two issues. First, the legal provisions amended initially as an anti-crisis shield in order to respond to the COVID-19 impact actually enabled to suspend deadlines stipulated by administrative law provisions (and thus, eventually to postpone or limit access to public information) ([rpo.gov.pl](#), 2020). Second, in early 2021, the Chief Justice of Poland's Supreme Court has formally requested the Constitutional Court to declare some of the key terms in the Access to Public Information Act as unconstitutional. The Commissioner for Human Rights formally objected to the request, as potentially detrimental to the principle of transparency ([rpo.cov.pl](#), 2021). Additionally, under the Polish legal system, there is no specific regulatory framework for the protection of whistleblowers yet. In December 2020, the process of transposition of the EU Whistleblower Protection Directive formally begun in Poland ([euwhistleblowingmeter.polimeter.org](#), 2020).

Also, the level of risk under **the indicator on journalistic profession, standards and protection** increased to 36%, thus amounting to medium risk. While no journalists were killed in recent years in Poland and journalists are not arbitrary imprisoned, the last few months saw an increased number of attacks (including against women) due to more intense involvement of journalists in the coverage of massive protests against the anti-abortion ruling of the Constitutional Tribunal. In addition to the attacks, abuse of power by some public institutions was also reported (CoE, 2020). Access to the journalistic profession is currently open. The COVID-19 pandemic has amplified some problems with social security and working conditions. Repeated lockdowns changed newsroom routines, imposed remote access to sources, and forced a number of media companies to cut correspondent jobs, reporting trips, and even led to reductions of editorial teams (Zbytniewska, 2020). The institutional setup of journalistic associations continues to sharpen fractioning of a journalistic community into opposing camps, applying different self-regulatory measures. Fragmentation also jeopardises effectiveness in negotiations with employers and legislators. Poland has no specific anti-SLAPP legislation. Recently, there has been a visible increase in lawsuits or warning letters addressing journalists and newsrooms in order to postpone or stop critical reporting concerning companies or public institutions ([press.pl](#), 2020b).

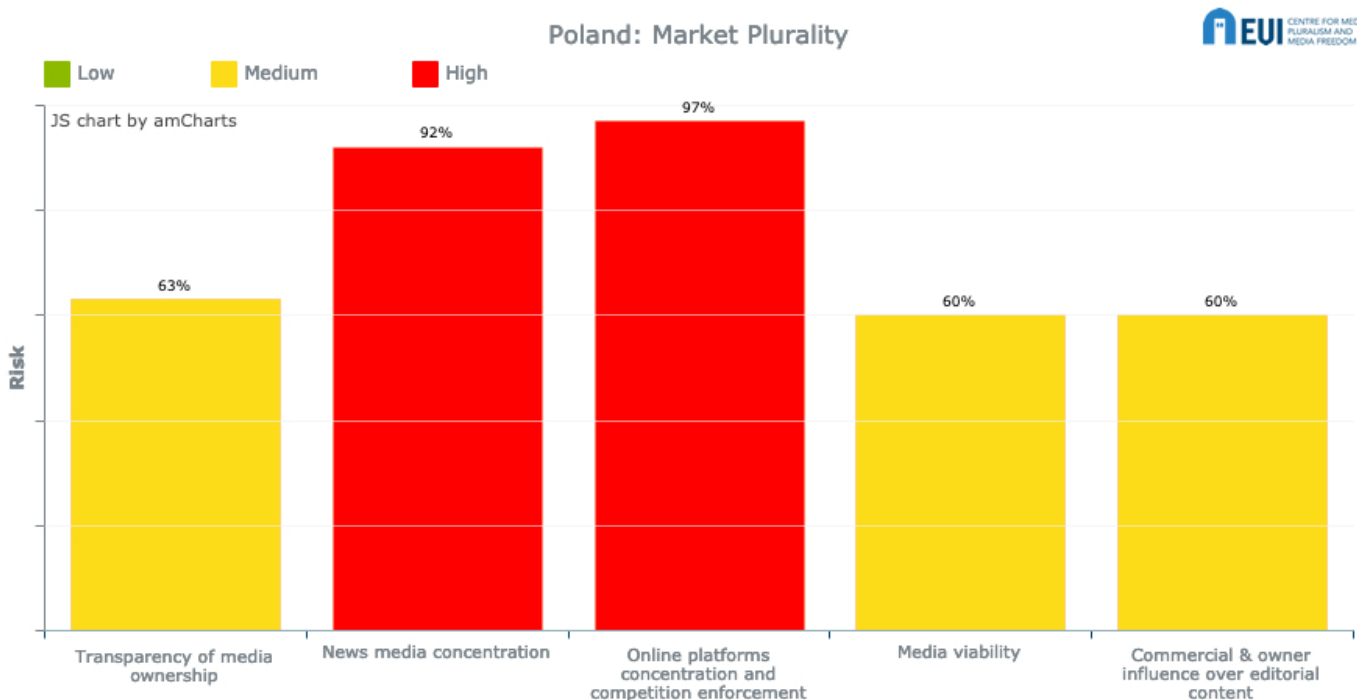
**The indicator on independence and effectiveness of media regulatory authority** amounts to 38% and shows medium risk. In practice, the appointment procedures for KRRiT do not ensure effective limitation of political influence. In 2016, some of the competencies of KRRiT in the area of appointing PSM boards and supervising PSM were taken over by newly established the National Media Council (RMN), regrettably lacking conflict-of-interest rules as regards the membership of active politicians. None of these bodies proved effective in monitoring PMS's news performance in accordance with its legally-set remit, particularly

as regards PSM coverage of the 2020 presidential campaign and election favouring incumbent Andrzej Duda (OSCE, 2020).

**The indicator on the universal reach of traditional media and access to the Internet** amounts to 21%, and represents the only indicator with low risk in all areas measured. Since the last year, both the percentage of population covered by broadband (76%), as well as average internet connection speed, increased (Office of Electronic Communications, 2020).

### 3.2. Market Plurality (74% - high risk)

*The Market Plurality area focuses on the economic risks to media pluralism, deriving from lack of transparency and concentration of ownership, sustainability of the media industry, exposure of journalism to commercial interests. The first indicator examines the existence and effectiveness of provisions on transparency of media ownership. Lack of competition and external pluralism is assessed separately for the news media (production of the news) and for the online platforms (gateways to the news), considering separately horizontal and cross-media concentration; the concentration of online advertising market; and the role of competition enforcement. The indicator on media viability measures the trend of revenues and employment, in relation with GDP trends. The last indicator aims to assess risks to market plurality posed by business interests on production of editorial content, both from commercial and owners influence*



Overall, Market Plurality detects the highest risk (74%) among all of the areas, while the risk for digital indicators in this area reaches the upper level of a medium risk band (65%).

The highest increase of risk in comparison with the last year is recorded in **the indicator on media viability** (from 21 to 60%). The COVID-19 pandemic unprecedently hardened economic performance of many media companies in Poland. According to some estimations, in the first half of 2020, overall advertising revenues in Poland decreased in 15.3% in comparison with the same period of the previous year (signs.pl, 2000). Some media companies had to rely on state aid, limiting working time and salaries by 20% (Zbytniewska, 2020). Since the end of March 2020, a weekly published by PMPG Polskie Media SA,

Wprost, stopped appearing in print. On the other hand, new news media initiatives have been launched throughout 2020. Reacting to the crisis and lay-offs in the Third Channel of the Polish Radio (Trójka), former Polish Radio journalists launched a successful crowdfunding campaigns to create two new online radio stations - "Nowy Świat" (New World) and "357". Additionally, an online news programme focusing on international relations "Raport o stanie świata" (The Report about World's State of Play) was auspiciously established by Dariusz Rosiak, also former journalist of Trójka. Another successful project includes OKO.press news investigative site, established in 2016. OKO.press's COVID-19 coverage and a focus on fact-checking politicians saw a 75% increase in one-off and 25% increase of regular donations (poynter.org, 2020).

**The indicator on transparency of media ownership** scores medium risk – 63%. While the news media sector is not regulated by sector specific provisions on transparency, some media-specific rules are at place in the sector of broadcasting. In March 2018, Poland implemented the 4th Anti-money Laundering Directive introducing the obligation to inform about beneficial owners to the Central Register of Beneficial Owners (CRBO).

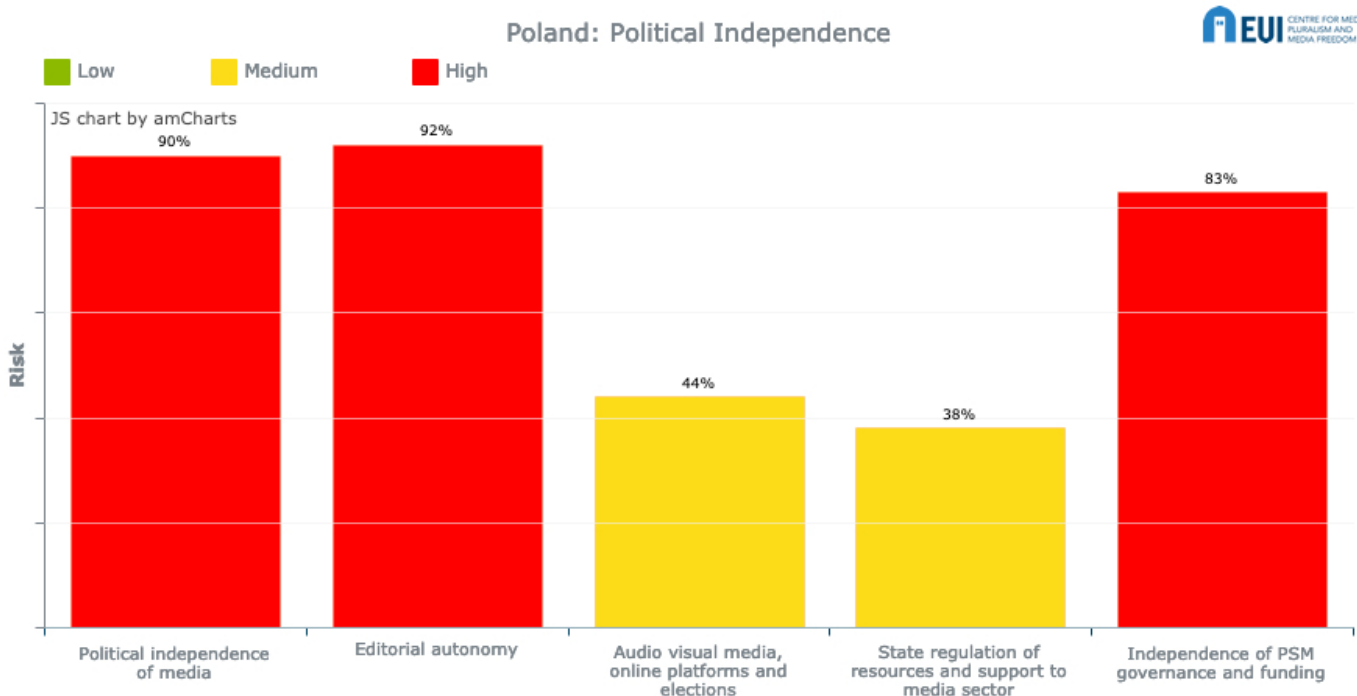
**The indicator on news media concentration** shows one of the highest risks among all of the indicators amounting to 92%. News media are generally regulated as other segments of the industry by general competition law. Market and audience shares of the 4 top owners have been particularly high in the audiovisual market - respectively, 93 per cent and 81.8 per cent, according to the last available data (KRRiT, 2020). At the same time, examples of regulatory decisions concerning media-related mergers or acquisitions by the national competition authority (UOKiK) show that available remedies are not always consistently used. In most cases, mergers or acquisitions were approved, also in cases where the acquiring company assumed significantly strong position and high share in audience market (e.g. PKN Orlen's takeover of Polska Press) (UOKiK, 2021a). On the other hand, the lack of approval concerning Agora's takeover of Eurozet, owner of Radio Zet, shows overtly restrictive interpretation of competition rules (UOKiK, 2021b). In addition, lack of publicly available data displaying actual shares of companies, particularly in revenue markets contributes to strengthening risk in this area. Responding to the appeal brought the Commissioner for Human Rights, in April 2021, Polish court ruled that antitrust approval of PKN Orlen's takeover of Polska Press should be suspended (reuters.com; 2021). Meanwhile, Orlen has continued to replace Polska Press board members and editors-in-chief. As of June 2021, a total of eight editors have been dismissed or changed (notesfrompoland.com, 2021; ipi.media, 2021).

**The indicator on online platforms concentration and competition enforcement** detects the highest risk among all of the areas (97%) resulting mainly from a strong positions of leading platforms (particularly Google and Facebook) and lack of more precise and publicly available data on the online audience and advertising shares. Also, still a majority of Polish users accesses news online via social networks or other intermediaries, thus preferring side-door rather than direct access (Makarenko, 2020) .

**The indicator on commercial and owner influence over editorial content** ranks in the medium risk band (60%). Commercial influence on the editorial content in Poland has been more subtle than political influence. In recent years, however, some forms of commercial influence have intensified. These include legal mechanisms such as the use of civil or criminal legal actions against the media or journalists, threatening letters, financial threats (such as withdrawing advertising) (press.pl, 2020b) and recently, also a potential confluence of commercial and political pressure resulting from the takeover of Polska Press by the state-owned oil company PKN Orlen.

### 3.3. Political Independence (69% - high risk)

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



In the area of political independence, the level of risk for media pluralism is high (69%), while digital indicators in this area score medium risk (55%).

A relatively high score of **the indicator on the political independence of media** (90%) stems from the fact that relevant regulatory safeguards limiting political control over media outlets in Poland (e.g. limits on control of media by politicians) are missing. So are the rules on conflict of interests between owners of media and the ruling parties, partisan groups or politicians. At the same time, last year saw some new developments that translate into increased political influence. These include in particular growing partisanship of the public service TVP (especially during the coverage of presidential election campaigns), the crisis in Trójka (Channel 3 of the Polish Radio) followed by a massive wave of dismissals, increasing pressure on editors of mainstream news media outlets from lawyers and legal firms representing politicians and public entities as well as a recent takeover of Polska Press group by a state-owned company PKN Orlen (press.pl, 2020; CoE, 2020; OSCE, 2020).

Similarly, **the indicator on editorial autonomy** shows high risk (92%). Not only effective legal safeguards guaranteeing editorial autonomy are missing, but there is also no agreement within the journalistic community which organization and code of conduct would play a principal role when representing the whole professional community in Poland. The perception of political bias in the news media is widespread and

growing in recent years. In 2019, only 27% of users stated the news media in Poland were impartial, while 56% shared the contrary view (CBOSa, 2019: 16). Insufficient impartiality and political influences contribute to the growing polarization of journalistic narratives. One aspect of this trend is demonstrated in the further institutional reinforcement of the rightwing “identity” press (e.g. through the support from state advertising or grants) and sharpening the political leaning (Wietoszko, 2018; Gołębiowski, 2019).

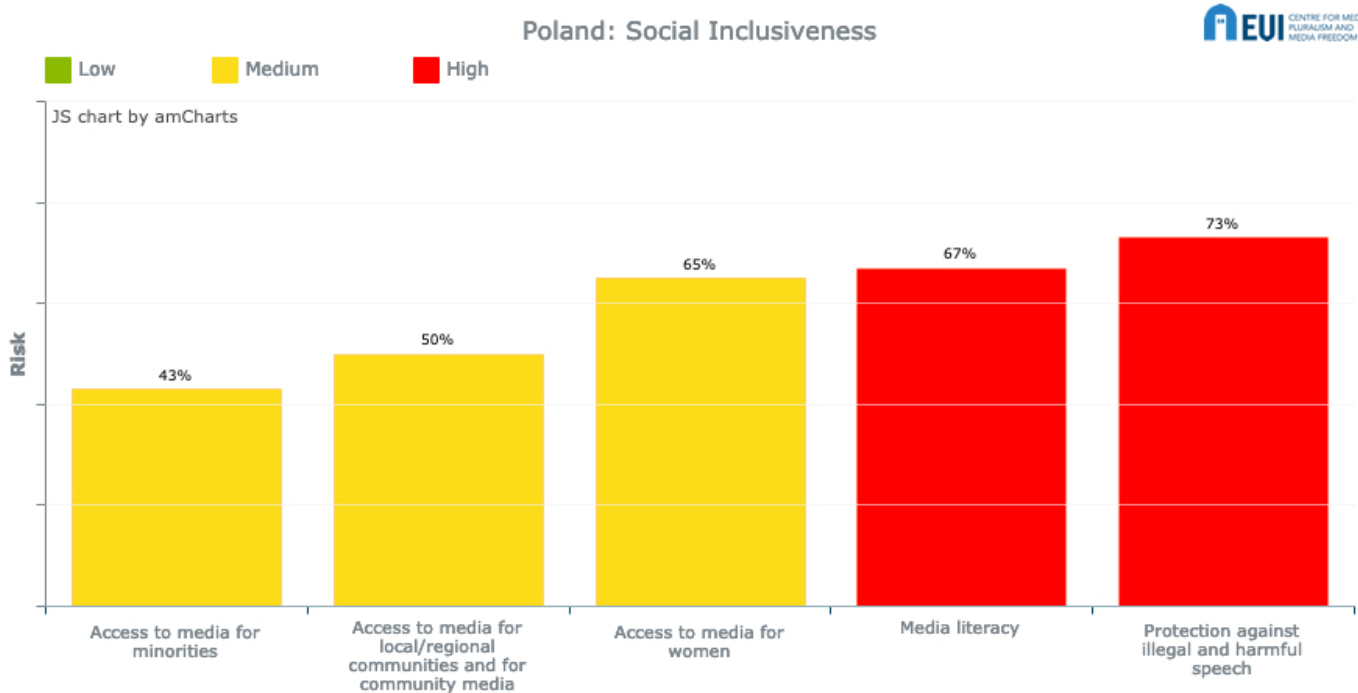
**The indicator on audiovisual media, online platforms and elections** shows a medium risk – 44%. The existing impartiality rules concerning PSM’s news performance are formulated in a very general way and do not contain practical requirements of quality, accurate and impartial reporting. On the contrary, electoral rules are quite detailed and specified. Neither of these, however, prevent PSM from the biased portrayal of political actors due to a lack of effective monitoring by relevant bodies (e.g. KRRiT). During the 2020 presidential election campaign, both main candidates decided not to get involved with those media outlets which they considered hostile. In the second round, they refused a joint debate, appearing instead on two different channels – Andrzej Duda on the public service *TVP*, while Rafał Trzaskowski on private *TVN24* with coverage also on *Polsat* (OSCE, 2020).

While the lowest level of risk in this area is detected by **the indicator on state regulation of resources and support to the media sector** (38%), the area certainly needs improvement. The systematic supportive schemes for the news media are generally missing. At the same time, other forms of state support, including grants, loans or state advertising, are very fragmented, non-transparent and come with political strings. The scattered available data show that growing advertising expenditures of state-owned companies in the last five years have been distributed asymmetrically, avoiding news media outlets without a government-sympathetic stance (Kowalski, 2020:31). In response to COVID-19, the Polish government adopted an “Anti-crisis shield” at the end of March 2020, offering various measures of support (both financial and legislative) for companies of all sectors. Some media groups applied for funds to cover employees’ salaries during the lockdowns; others did not (wirtualnemedi, 2020a). One of the following amendments of the anti-crisis shield (The Act of 14 May 2020, 2020) introduced an additional levy (1.5% of the revenues obtained from subscription payments or advertising) on local revenues of video-on-demand (VOD) platforms operating in Poland (Ey.com.2020). Moreover, at the beginning of 2021, the government announced a widely disputed bill (Ministry of Finances, 2021) proposing a new levy on advertising revenues of a large array of media companies arguing that the tax is intended to support three public funds. Diversified proportions of the levy calculated in the bill show that the hardest-hit entities would be smaller domestic news media groups, not the global digital platforms. The bill led to a national media strike on 10 February 2021 under the slogan: Media without choice (Media bez wyboru).

**The indicator on independence of PSM governance and funding** (83%) continues to detect one of the highest risks. The biggest and lasting vulnerability stands for a politically-controlled mechanism of appointment of top PSM managers, including Directors General. The current PSM management, and *TVP*, in particular, supports growing political partisanship justifying it by the need to “reinstate pluralism in the Polish public debate” (Karnowski Jacek and Karnowski Michał, 2019). In 2019, PSM altogether received PLN 650 million (EUR 142 million) from the licence fees, while “compensation” from the budget amounted to PLN 1260 million (EUR 276 million) (KRRiT, 2020a). This mode of PSM funding does not only make PSM funding less transparent (e.g. amounts of “compensation” from the state budget are repeatedly included in a category of “licence-fee funding”, while in fact, the source is state budget) but makes PSM more dependent on government decisions about adequate funding.

### **3.4. Social Inclusiveness (60% - medium risk)**

The Social Inclusiveness area focuses on the access to media by specific groups in society: minorities, local and regional communities, women and people with disabilities. It also examines the country's media literacy environment, including the digital skills of the overall population. In addition, for the 2021 edition of the MPM, a new indicator has been added to the Social Inclusiveness area in order to assess new challenges raising from the uses of digital technologies: Protection against illegal and harmful speech. Due to this modification of the indicators, comparison with previous editions of the MPM should be handled with extreme care.



The social inclusiveness area scores a medium risk (60%) with a significantly higher risk for digital indicators (85%).

**The indicator on Access to media for minorities** scores medium, and at the same time, the lowest risk in this area (43%). Officially recognised minorities in Poland enjoy legally guaranteed access to airtime on PSM channels. In practice, however, a share of programmes produced in minority languages in the TVP has remained fairly marginal and has decreased by almost 40% between 2015 – 2019 (KRRiT, 2020a). Non recognised minorities do not enjoy the same guarantees as officially recognised minorities. During the 2020 Presidential campaign, ODIHR observed that some of TVP's reporting was "charged with xenophobic and antisemitic undertones" (OSCE, 2020). Policies concerning accessibility of media content by disabled persons have improved in recent years in Poland, but the progress does not seem to be fast, comprehensive and inclusive enough. While the law enabling a greater proportion of programming with aids was enacted in 2018 (amendment to 1992 Broadcasting Act), the available data still prove that these services are below the EU average in terms of their proportion and reach (KRRiT, 2020a).

**The indicator on Access to media for local/regional communities and for community media** scores a medium risk (50%). The share of PSM channels containing regional programming has decreased over the last three years (for both TV and radio), while the share of commercial local radio stations increased from 29.1% in 2015 to 34% in 2019 (KRRiT, 2020). Community media are not legally recognised as the third sector in Poland. The 1992 Broadcasting Act operates with the category of 'social broadcasters', but independence of the broadcasters is not recognised as a legal condition (Article 4(10) of the 1992

Broadcasting Act). In general, non-profit media such as student radios or minority media have a quite marginal impact, with the exception of catholic media, and in particular, the Radio Maryja media network (including also TV Trwam, among other initiatives). Unlike other social broadcasters enjoying the status of non-profit media, the Radio Maryja network has benefited from various streams of public funds (Oko.press, 2020a). During the 2020 presidential election, Radio Maryja heavily supported Andrzej Duda, who often visited the radio and assured its listeners about his firm stance on the prohibition of abortion and the limitation of LGBT rights.

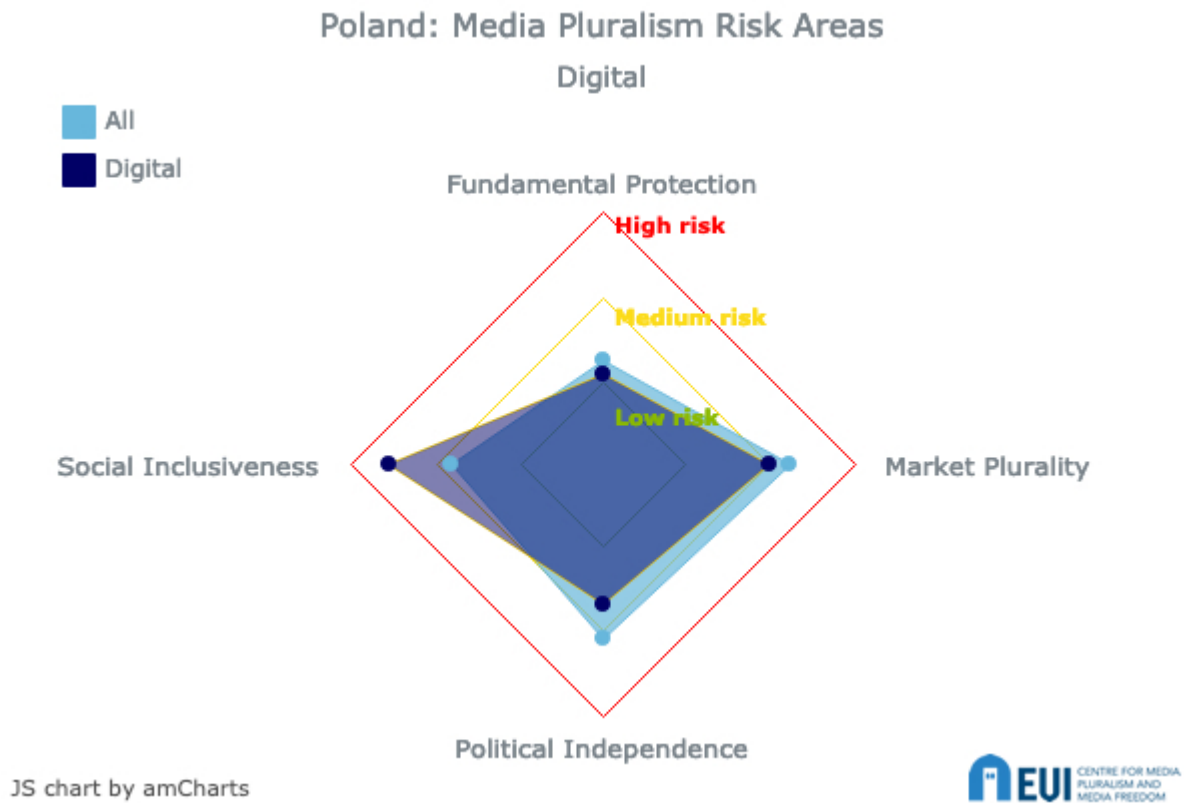
**The indicator on Access to media for women** shows improvement in comparison with the last year, reaching the medium risk level (65%). While the share of women visibly increased among executives and management boards of both PSM and private TV companies, a comprehensive gender equality policy (other than general employment guidelines) is nevertheless missing in PSM. Women are relatively well-represented among journalists and anchors in Poland. Studies, however, show that the representation of women, particularly in roles of experts, is far from being proportional (Chrzszczonowicz and Szcześniak, 2018; Rucińska, 2017). During the women's strikes in October and November 2020 caused by the anti-abortion ruling of the Constitutional Tribunal, the protests were often commented on by female journalists and experts, yet women's activists also became subjects of hateful comments in both social media and news media (see Gazetapolska.pl, 2020; Jachowicz, 2020).

**The indicator for Media literacy** shows a high risk (67%). On the one hand, media literacy seems to play an increasing role in media and communication policy in Poland. On the other hand, media literacy policy remains fragmented, and the activities of various institutions seem not well connected. Moreover, support from the government and other relevant institutions fluctuates and lacks stability. The COVID-19 pandemic put under the spotlight the fact that Polish schools were unprepared for such a situation and needed stronger media literacy training. Both primary and secondary schools underwent two major distance-learning periods – from March to June 2020 and from October 2020 until now. While certainly both teachers and students made digital advances, new modes of education revealed long-lasting problems, such as lack of more systemic support from the Ministry of Education concerning methods and instruction (notesfrompoland, 2020).

Finally, **the indicator on Protection against illegal and harmful speech** detects a high risk (73%). Both accidental and systematic disinformation campaigns pose a serious problem in Poland. At the same time, the fight against disinformation in Poland is fairly fragmented, not systematically implemented and not backed by a broader strategy. The effectiveness of countering online hate speech also meets several limitations. First, the protective scope of legal measures addressing hate speech does not encompass all protected characteristics recognised under international human rights and explicitly sexual orientation, gender equality, age and disability. Second, while self-regulatory instruments provide some form of protection, these do not protect effectively against polarised and often politically or ideologically biased discourses targeting minorities, and most importantly, the LGBT community in online media.

## 4. Pluralism in the online environment: assessment of the risks

In the case of Poland overall, digital sub-indicators tend to mark lower risk scores than the general scores in all of the areas, with the exception of social inclusiveness.



### Fundamental Protection

In the Fundamental Protection area, the results for digital sub-indicators stand for 35.7% (medium risk) in comparison with 41% for the whole domain.

Freedom of expression online does not function as a specific legal category distinguished from freedom of expression and freedom of the media protected by the Polish Constitution (The 1997 Constitution of the Republic of Poland, Articles 54 and 14). At the same time, the government has recently promoted freedom of expression on the Internet as one of its flagship policy issues (PiS, 2019). In January 2021, the government proposed a bill “on freedom of speech on the internet social media services” that would aim to stop social media and digital platforms from deleting content or banning users who do not break Polish laws (Ministry of Justice, 2021). The bill intends to establish a Freedom of Speech Council composed of five members elected by the three-fifths majority vote in Parliament for six years responsible for reviewing users’ complaints and eventually also ordering restoration of deleted content or unblocking of users’ accounts. On the one hand, representatives of NGOs and experts agree that Poland needs regulation enabling to monitor platform policies and content-related decisions. On the other hand, they also express concerns about political influences on the work of an eventual council and insufficient protection of users against hate speech (press.pl, 2021).

The digital safety of journalists has been occasionally threatened through surveillance by the police and intelligence services, as well as the use of journalists’ telecom or internet data without their prior notification. The universal reach of broadband has grown to 76%, and average internet connection speed increased (Office of Electronic Communications, 2020), thus resulting in lowering the risk calculation for this indicator.

### Market Plurality

In the market plurality area, digital sub-indicators score visibly lower level of risk (65%) than the whole area

(74%).

One of the greatest risks pertains to the lack of publicly available data displaying actual shares of digital natives, online news providers, as well as platforms in audience and revenue markets. As regards digital native media providing news and journalistic content, the available data show a dominance of two digital native news portals – onet.pl (owned by Ringier Axel Springer Polska) and wp.pl (owned by Wirtualna Polska Holding) (wirtualnemedi.pl, 2020). The leading digital platforms Google, YouTube and Facebook have secured a majority of users in the Polish online market, while the position of Google and YouTube slightly strengthened in comparison with the previous year (wirtualnemedi.pl, 2021). The platforms also largely provide a point of access to the news as a slight majority of Polish users prefers an indirect path rather than direct access to the news (Makarenko, 2020).

In Poland, direct state support for the media sector, including digital news media, has been minimal. Poland has not introduced a specific form of taxation for digital services so far, but there has been a debate about “digital tax” during 2019. The strong criticism and preventive political steps taken by the US government contributed to the rejection of the idea (polandin.com, 2019). In May 2020, new rules under the Shield 3.0 Anti-Crisis Act introduced an additional levy (1.5% of the revenues obtained from subscription payments or advertising) on local revenue of VOD platforms operating in Poland (Ey.com.2020). At the same time, as noted above, the bill proposed by the government in February 2021, introducing additional levy for various media, will have lesser impact on digital platforms than e.g. press and TV companies (Ministry of Finances, 2021).

### **Political Independence**

In the area of political independence, digital sub-indicators display a lower risk (55%) than is the case of the overall area (69%).

Similarly, as the legacy news media, digital-born news portals stand for different political orientations and are occasionally subject to political influence. Also, throughout the last few years, digital natives have become slightly more polarised. In January 2020, an investigative and fact-checking news website OKO.press revealed controversial editorial policies of wp.pl. According to investigations, hundreds of wp.pl articles were written under the names of fake journalists, some of which praised activities of the Ministry of Justice as well as selected state-owned companies (OKO.press, 2020).

The digital sub-indicators on specific codes of conduct concerning the use of social media show that such codes, eventually targeting the whole journalistic environment, are absent in Poland. At the same time, journalists are aware of the dividing or polarizing effect of social media on the journalistic community (Press Institute, 2017). The campaign spending on online platforms is not explicitly regulated by the Election Code (2011). As regards the spending and techniques used in social media political campaigns, relevant political entities do not seem to be particularly transparent about their tactics and practice. Yet, these have been widely reported by some news media (OKO.press, 2020c). Rules on political advertising, in particular labelling political and issue-based advertising, were introduced by all big digital platforms operating in Poland in 2019. Finally, online public services are not specifically mentioned in the Broadcasting Act (1992); however, the amended Broadcasting Act in the Article 21a(2) (1992) refers to the Charters of Tasks of TV and Polish Radio, which list a number of “multimedia services” such as TVP’s portal or VoD services as part of PSM remit (TVP, 2020; PR, 2020).

### **Social Inclusiveness**

In the area of social inclusiveness, the digital sub-indicators detect the highest risk among all of the areas, reaching 85%. The significant difference between the overall value (60%) and the digital sub-indicators (85%) for this area shows that the greatest threats to media pluralism are associated with the digital dimension – in this case – digital competencies and protection against disinformation and hate speech on

social media.

The sub-indicator on digital competencies shows that 44% of the population has basic or above basic overall digital skills, which scores for high risk as the EU27 average stands for 56% (Eurostat, 2019).

Regarding protection against disinformation, available legal measures pertain mainly to requirements of journalistic accuracy and reliability (which apply only in news media and refer to journalistic performance). Other facilitating measures are being applied by the digital platforms themselves in accordance with the Code of Practice on Disinformation, but so far, these policies are, to a certain extent, limited. Finally, the government and the public institutions take some ad hoc policy actions targeting publicly important problems such as disinformation under the pandemic (e.g. via launching the #FakeHunter platform in 2020) or electoral campaigns.

Concerning protection against hate speech, legal safeguards are generally based on constitutional provisions (only general anti-discrimination rules), the 1997 Criminal Code and the 1992 Broadcasting Act. While the 1997 Criminal Code prohibits and punishes various forms of incitement to hatred, the catalogue of punishable forms of discrimination omits categories such as gender equality, sexual orientation, age or disability (The 1997 Criminal Code). Disciplinary actions concerning hate speech disseminated by social media platforms or journalists rarely take place. While content management policies of digital platforms certainly improved in recent years (see, e.g. You Tube, 2019; Google, 2019; Facebook 2019), it is difficult to come to unequivocal conclusions regarding the effectiveness of these policies as the digital platforms do not share data and reports on hate speech and blocking those acts on their services publicly. Besides, as a Polish political discourse has been characterised by growing hostility to the LGBT community and LGBT rights in recent years (Szczyńska, 2020), it has not only been more difficult to combat hate speech by minority communities but also to dismantle the political legitimisation of such discourses.

## 5. Conclusions

The 2020/2021 MPM measurement shows that media pluralism in the areas of Fundamental Protection (41%) and Social Inclusiveness (60%) has been exposed to a medium risk level, while in the areas of Political Independence (69%) and Market Plurality (74%) to a high-risk level.

While all MPM areas were influenced by the COVID-19 pandemic, the area of **Market Plurality** faced the hardest challenges. Economic difficulties and losses in advertising revenues contributed to further weakening of news media, particularly the press, and strengthening the dominance of digital platforms. The platforms now function as principal gateways to the news while also playing a key role in setting rules on content management issues such as political advertising or hate speech. The high risk in this area can be addressed by:

- development of such tax policies that will not put additional financial burdens on media providing original news content, but rather support them,
- establishing effective rules that would limit the concentration of media and digital power (not only related to ownership) and better reflect specific features of digital media markets, including a ‘gatekeeper’ function of platforms, and the role of state’s involvement in the news media business,
- setting editorial policies and rules for state-owned news media that would effectively prevent confluence of commercial and political influence,
- applying a broader and “mutual” concept of media/news transparency that will allow disclosing information both from the news media and state/public institutions being involved financially in news media operations and also improve access to the most up-date news market data (such as advertising revenues) and data resulting from platforms’ content management policies.

In the area of **Political Independence**, growing challenges affecting the business models for news producers, insufficient transparency and asymmetric distribution of state advertising contribute to serious threats. Lack of political independence and growing partisanship continue to define PSM’s performance. A possible response to these risks may focus on:

- guaranteeing transparent (full disclosure of information to citizens) and proportional distribution of state advertising for the news media, including digital natives and online providers,
- relating state or public support for the news media with the concept of “original news content” or “quality journalism”,
- improving a PSM governance model so that it is free from political influence from government or political parties,
- introducing effective monitoring of PSM performance by KRRiT.

Some of the risks detected in the area of **Fundamental Protection** generate systemic implications for media pluralism, particularly weakening of judicial independence and visible increase of attacks, abuses of power and legal actions addressing journalists and newsrooms. These risks may be mitigated by:

- strengthening of judicial independence to ensure an enabling environment for freedom of expression and legal certainty for journalists and the media industry,
- reinforcing the independence of media regulatory authority (KRRiT) and strengthening its mandate in the area of effective PSM monitoring,

- building a common front among journalists to effectively respond to threats and legal actions against journalists in order to strengthen professional resilience and limit chilling-effect on freedom of expression.

In the area of **Social Inclusiveness**, a particular concern may be raised with regard to the insufficient protection against hate speech and the weak and fragmented national policy on media literacy. These risks may be addressed by:

- adopting a broader scope of measures addressing “hate speech”, that would encompass all the protected characteristics recognised under international human rights,
- developing a more systematic approach to media literacy (including formal curriculum) completed by regular monitoring of media use and of users’ digital skills and competencies,
- a legal and policy recognition of non-profit community media while respecting their independent status.

Finally, the news media, in particular those offering original and well-resourced content, should be strengthened, not weakened in times of greatest turbulence. More than ever, there is a need to preserve a sound space for an open, pluralistic and wide unrestricted public debate. Thus, the news media need a transparent and enabling environment and not to be challenged by additional legal, political or economic burdens in order to build greater resilience and serve democracies.

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## Annexe I. Country Team

First name	Last name	Position	Institution	MPM2021 CT Leader
<i>Beata</i>	<i>Klimkiewicz</i>		<i>Journalism, Media and Social Communication, Jagiellonian University</i>	X

## Annexe II. Group of Experts

The Group of Experts is composed of specialists with a substantial knowledge and recognized experience in the field of media. The role of the Group of Experts was to review the answers of the country team to 16 variables out of the 200 composing the MPM2021. Consulting the point of view of recognized experts aimed at maximizing the objectivity of the replies given to variables whose evaluation could be considered as subjective, and therefore to ensure the accuracy of the final results of the MPM. However, it is important to highlight that the final country report does not necessarily reflect the individual views of the experts who participated. It only represents the views of the national country team that carried out the data collection and authored the report.

First name	Last name	Position	Institution
<i>Alicja</i>	<i>Jaskiernia</i>	<i>University Professor - Academic</i>	<i>University of Warsaw, Faculty of Journalism, Information and Book Studies</i>
<i>Andrzej</i>	<i>Krajewski</i>	<i>Representative of a journalistic organisation</i>	<i>Towarzystwo Dziennikarskie (Society of Journalists)</i>
<i>Jolanta</i>	<i>Hajdasz</i>	<i>Director of CMWP; Vice-Chair of SDP</i>	<i>Press Freedom Monitoring Centre (CMWP), Polish Journalists' Association (SDP)</i>
<i>Dorota</i>	<i>Zielinska</i>	<i>Representative for International Relations</i>	<i>Polish Journalists' Association</i>

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