

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2022

Country report: Spain

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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 that is 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 that was carried out in 2022. 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 notes

### Authorship and Review

*The CMPF partners with experienced, independent national researchers to carry out the data collection and to 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 that was developed by the CMPF.*

*In Spain the CMPF partnered with Jaume Suau, Pablo Capilla García, PhD David Puertas Graell, PhD Miguel Franquet, Elena Yeste Piquer and Lidia Cordero Triay (School of Communication and International Relations. Ramon Llull University), Dr. Marçal Sintès-olivella (School of Communications and International Relations. Ramon Llull University), Roger Vallsells (Blanquerna School of Communication and International Relations. Ramon Llull 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 Annex 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).*

Fundamental Protection	Market Plurality	Political Independence	Social Inclusiveness
Protection of freedom of expression	Transparency of media ownership	Political independence of the media	Representation of minorities
Protection of right to information	Plurality of media providers	Editorial autonomy	Local/regional and community media
Journalistic profession, standards and protection	Plurality in digital markets	Audiovisual media, online platforms and elections	Gender equality in the media
Independence and effectiveness of the media authority	Media viability	State regulation of resources and support to the media sector	Media Literacy
Universal reach of traditional media and access to the Internet	Editorial independence from commercial and owners' influence	Independence of PSM	Protection against disinformation and hate 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 being intertwined*

*with the traditional media and the existing principles of media pluralism and freedom of expression. Nevertheless, the Monitor also extracts digitally specific risk scores, and the report contains a specific analysis of the risks that 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% and 66%: medium risk*

*Scores between 67% and 100%: high risk*

With regard to the Indicators, scores of 0 are rated as 3%, while scores of 100 are rated as 97%, by default, in order to avoid an assessment that offers a total absence, or certainty, of risk.

### **Methodological Changes**

For every edition of the MPM, the CMPF updates and fine-tunes the questionnaire, based on the evaluation of the tool after its implementation, the results of previous data collection and the existence of newly available data. For the MPM 2023, no major changes were made to the questionnaire, except for the Indicators Transparency of Media Ownership, Plurality in Digital Markets and Editorial Independence from Commercial and Owners Influence (Market Plurality area), and Protection Against Disinformation and Hate Speech (Social Inclusiveness area). The results obtained for these indicators are therefore not strictly comparable with those results obtained in the previous edition of the MPM. The methodological changes are explained on the CMPF website at <http://cmpf.eui.eu/media-pluralism-monitor/>.

In the Market Plurality area, the names of three Indicators have changed. The former indicator on "News Media Concentration" is now named "Plurality of Media Providers"; "Online Platforms and Competition Enforcement" has been renamed as "Plurality in Digital Markets"; "Commercial & Owners' Influence Over Editorial Content" has been renamed as "Editorial Independence from Commercial and Owner Influence".

**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 who carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2023 scores may not be fully comparable with those in the previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2023, which is available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

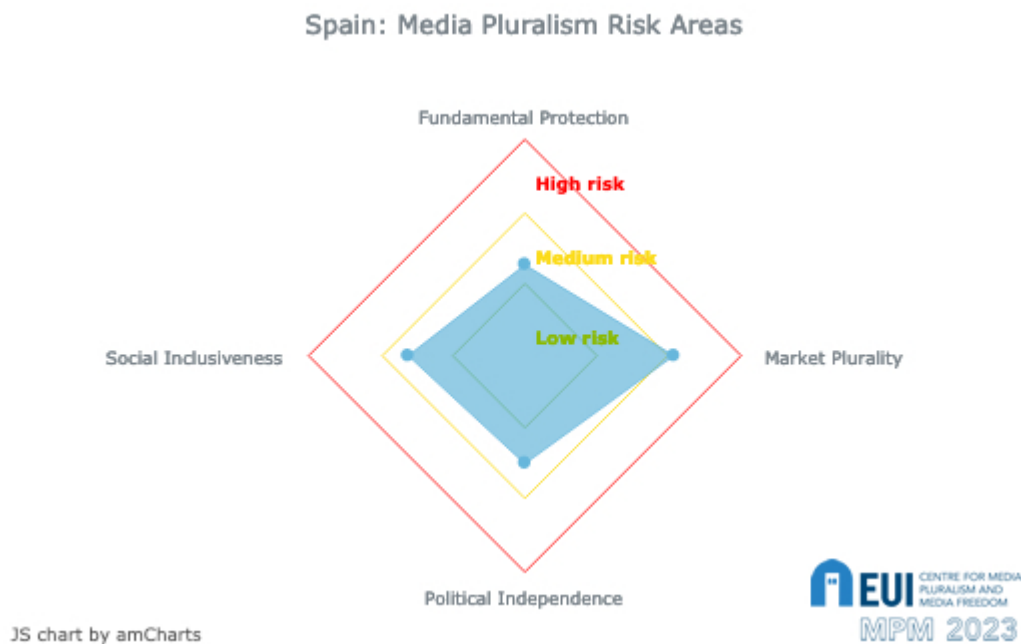
## 2. Introduction

- **Country overview.** Spain has an area of 505,944 km<sup>2</sup> between southwestern Europe and northern Africa, sharing the Iberian Peninsula with Portugal. Apart from this, Spain also has two groups of islands, the Balearic Islands, in the Mediterranean Sea, and the Canary Islands, in the Atlantic Ocean, as well as two autonomous cities in North Africa (Ceuta and Melilla). The population of Spain is 47.615.034 inhabitants, according to the latest data from the National Institute of Statistics by second semester 2022. This means an increase of 182.141 people during the first half of 2022, thanks to a positive migratory balance of 258.547, which balanced the negative vegetative balance of 75.409. This trend confirms data from previous semester, in which the population grew, compared to last years, in which the population was slightly reducing or keeping more or less stable.
- **Minorities.** According to the latest data from the National Institute of Statistics there are 5.579.948 foreigners residing in Spain. The most representative countries from where foreigners living in Spain are coming from are: Morocco (770.600), Romania (619.800), Italy (306.600), Colombia (375.500), Venezuela (251.900) and China (187.988).
- **Languages.** Castilian Spanish is the official Spanish language of the State, and the most widely spoken throughout the country (98.9%, according to last data from National Institute of Statistics). There are other languages in Spain, recognized as official in certain regions. These are the Basque (spoken by around 1 million citizens), Catalan (10m) and Galician (3m), as well as Aranès, a language spoken in North Catalonia, by around 10.000 people.
- **Economic situation.** According to the last data from the National Institute of Statistics Spanish gross GDP grew 5,5% compared to 2021, for a total of 1.328.922 million euros. GDP per capita in 2022 is 27.870eu, 2.370 bigger than previous year. Despite this slow economic recovery after Covid-19 pandemic and the effects of the war in Ukraine, other economic data point to important shortcomings of the Spanish economy. For example, according to the AROPE 2022 report 21,7% of the Spanish population are in poverty risk, which means almost 10 million people, 0'7% more than last year. Also, despite slowly reducing in recent years, the unemployment rate is still among the bigger ones in the eurozone (12,8%). The inflation rate for 2022 was of 8,3%.
- **Political situation.** The political situation in Spain is represented by a progressive coalition government made up of the PSOE (center-left) and UP political parties (left). Since June 2018, the President of the Government is Pedro Sánchez (PSOE), after the governance of Mariano Rajoy and his right-wing party (PP) (2011-2018). Far right is increasing its presence in the country through the VOX party, and its president Santiago Abascal. For example, in the last elections to govern the autonomous region of Castilla y León, VOX has won 13 seats in 2022, 12 more than in 2019. The growth of the far right can be also seen in the more extreme positions defended by other right wing parties, which contributes to a growing polarization. Recent years have also seen a convulsive political situation due to the push for independence of some Catalan political parties and civic society associations. General elections will be held on July 2023.
- **Media market.** According to the National Institute of Statistics 96% households have broadband connection, 82% have some kind of computer and 94,5% of citizens have used the internet in the last 3 months. The big percentage of internet use is not related to news consumption, as just 64,8% of the population consumes online news, a similar percentage than the ones using social media (69,6%),

according to AIMC data from the end of 2022. Television is still the main media format, with a 78,5% of users, although this percentage is slowly reducing (was of 84,2% two years ago). Radio continues at 54%, while magazines (22%) and press (14%) seem to have stabilized in comparison to previous years. Another relevant trend related to news consumption is highlighted in the Digital News Report 2022, with a decrease of trust on news and increase in skepticism and lack of interest on news. Despite being low in general terms, the number of citizens with subscriptions who pay for news online is growing.

- **Regulatory environment.** Regarding the regulatory environment, last year saw the approval and application of new laws and regulations. At the national level, the new General Law of Audiovisual Communication was approved with the aim to transpose the Audiovisual Media Services Directive (AVMS). At EU level Regulation (EU) 2022/1925 of the European Parliament and of the Council (Digital Markets Act) as well as Regulation (EU) 2022/2065 (Digital Services Act) entered into force, though the latter will apply from 17 February 2024, with an exception regarding some provisions that have been applied since 16 November 2022 (Art. 93(2)).

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



The **Fundamental Protection** area scores a total of 42%, Medium Risk, which is slightly higher than in the last MPM edition (40%). This is due the fact that most of the main shortcomings detected in previous years continue to exist without any clear sign or intention of improvement from public authorities. Restrictions to the right of information and freedom of expression remain despite national and international calls to modify the Criminal Code and the “Gag Law”. Although the current government promised to act in this matter, these laws continue to exist. Similarly, other relevant issues such as the generally bad economic conditions of the journalistic profession, as well as lack of protection from political pressures, continue to persist.

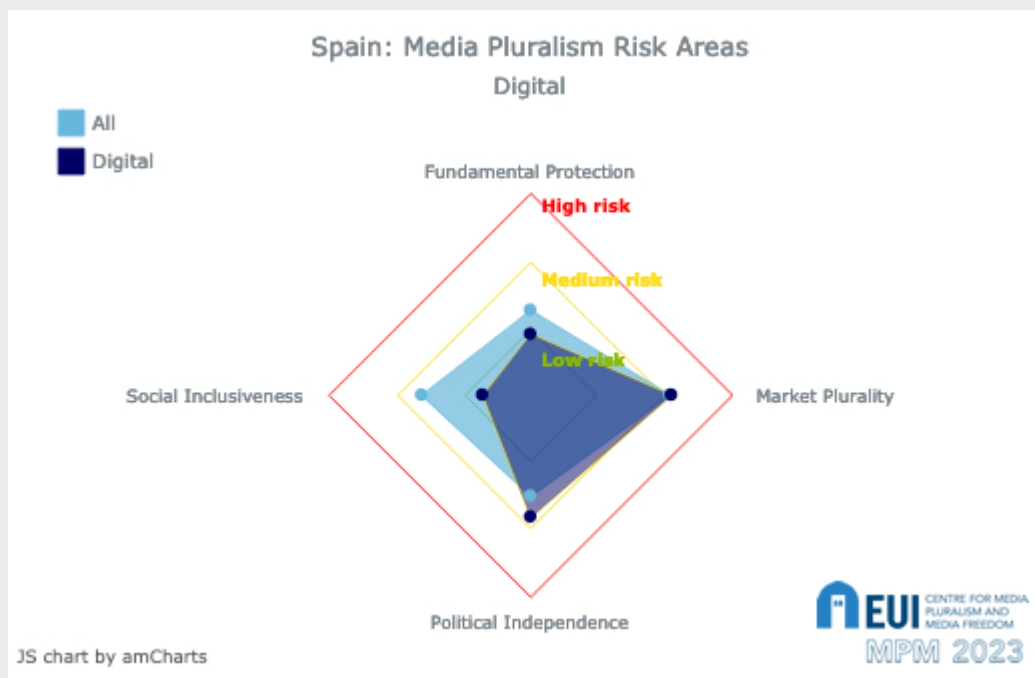
The **Market Plurality** area scores a risk of 69%, High Risk, slightly higher than last year 67%. Spain continues to maintain a hard situation regarding transparency of media ownership and financial transparency, as well as in news media concentration. The recent evolution of the regulatory framework did not solve yet the opacity and lack of reliable data regarding business concentration in digital markets. Regarding media viability, despite some signs on higher subscriptions, media still struggle between collapsing business models and lack of clarity about how to ensure income from digital models.

The **Political Independence** area scores a risk of 50%, medium risk, the same risk category of the previous MPM implementation. The lack of editorial autonomy and safeguards for political independence of media, both public and private, continues to endanger media pluralism in Spain. Worth mentioning here is the situation of public service broadcasters, still powerless to stop partisan interference in their reporting and appointment of management and editorial positions.

The **Social Inclusiveness** area scores a risk of 54%, lower than in past editions, but mainly due methodological changes. The worst situation in this indicator is referred to as Gender equality in the media, with a lower number of women in high positions as well as a relevant existing pay gap between women and men. As in previous years, Representation of minorities in the media and the lack of regulation and state aid for community media continues to be relevant shortcomings in this area.



## Focus on the digital environment



The results for Digital are similar than for other dimensions of the analysis. There is a situation of Medium risk in all areas, except in **Market Plurality**, which scores High Risk. Three new pieces of legislation affecting the media environment became part of the Spanish legal framework in 2022: the new General Law of Audiovisual Communication was approved by the Spanish Parliament to transpose the Audiovisual Media Services Directive (AVMS); and the EU Regulations - the Digital Markets Act and the Digital Services Act. Theoretically, these laws should improve the regulation of the digital sector, although its practical application and, therefore, its effectiveness have yet to be determined.

In terms of **Fundamental Protection** the situation has slightly improved, as a result of the 2022 Supreme Court decision 1.231/2022 of October 3, that prevents the public administration from closing or blocking online websites prior to a court decision. This is a very important step forward when it comes to preventing the public administration from arbitrarily closing and denying access to online content.

In terms of **Market Plurality**, the main concern is the lack of reliable data in everything related to digital media. For example, there is no data available on the degree of business concentration in digital media. Audience measurement is also undergoing a period of transition towards reliable and industry-wide accepted metrics.

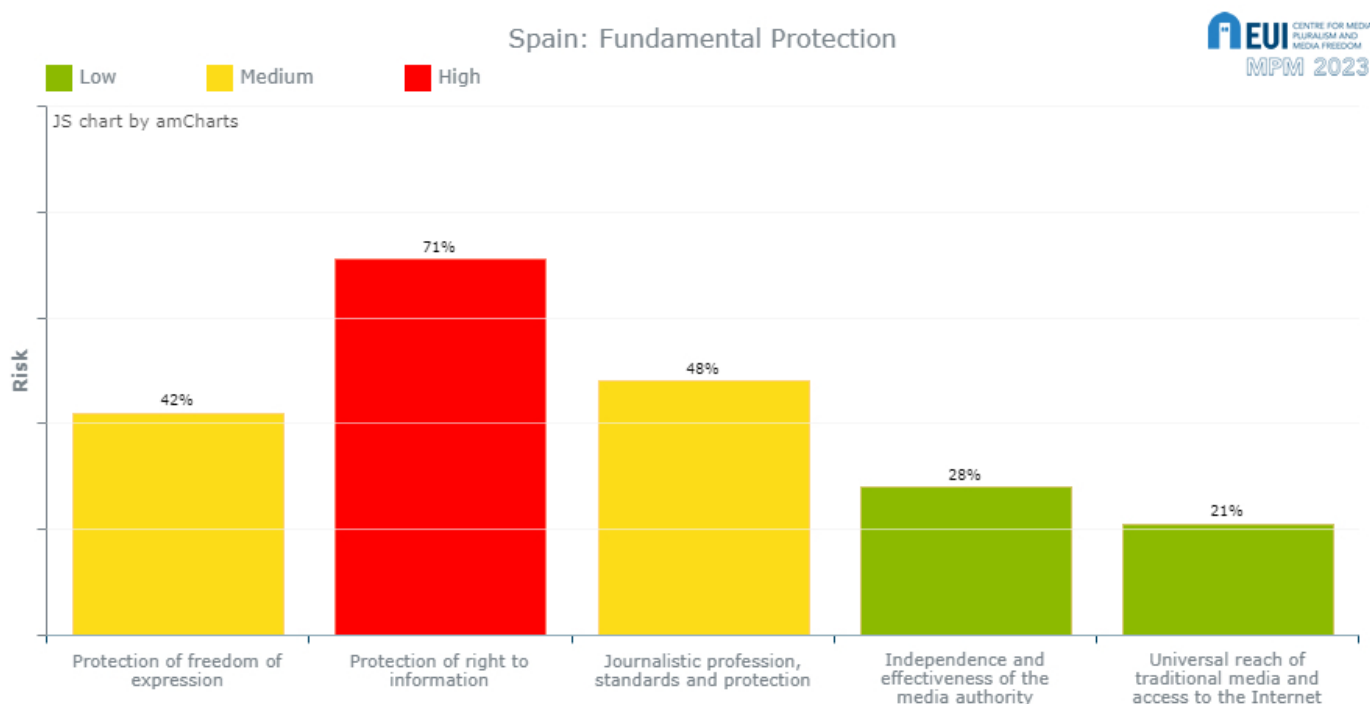
In relation to **Political Independence** (scoring 60% in the digital environment), it is worth highlighting that current legislation does not establish limits to online political advertising, nor obligations of political parties in the disclosure of these advertising expenditures. In addition, it does not limit the collection of personal data by political parties, allowing practices such as microtargeting.

In relation to **Social Inclusiveness**, there exist many different national initiatives to counter disinformation and online hate speech, both at governmental, civil society or academic fields.

However, is commonly acknowledged that these threats are relevant and persistent, despite lack of agreement on their real spread and impact.

### 3.1. Fundamental Protection (42% - 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 the competence to regulate the media sector, and the reach of traditional media and access to the Internet.*



In line with the results obtained last year, among the different categories, the right to information is still the one that faces the highest risks in Spain (71%). The Journalistic profession, [its] standards and protection (48%) and freedom of expression (42%) face medium risks and the independence and effectiveness of media authority (28%) and the universal reach of traditional media and access to the Internet (21%) face low risks.

**The protection of freedom of expression** has improved slightly (medium risk: 46% to 42%) in 2022 as a consequence of the 2022 Supreme Court decision 1.231/2022 of October 3, that prevents the public administration from closing or blocking online websites prior to a court decision [1]. The decision makes it clear that the administration is only allowed to order the closing of the sections of the websites that share contents and/or that offer products and services considered illegal under the Spanish law, but not the closing of the whole website. This is a very important step forward when it comes to preventing the public administration from arbitrarily closing and denying access to online content.

Among the major threats to freedom of expression, it is worth mentioning the situation regarding defamation. According to articles 205 and 208 of the Criminal Code, defamation is still a crime in Spain [2]. In 2021, the Commissioner for Human Rights of the Council of Europe, Dunja Mitjatovic sent a letter to the Spanish Minister of Justice, Mr. Juan Carlos Campo, expressing her concern regarding articles 490 and 491 of the Penal Code that criminalize libels and insults to the monarch or to members of the royal family that

led to the prosecution and imprisonment of several rap musicians [3]. This situation has not yet been addressed. It is also worth mentioning that the Spanish Government has not yet derogate or revise the controversial Law 4/2015 of March 30, on Protection of the Citizen's Security (commonly known as Gag law), despite the continuous concerns voiced out by the Council of Europe and by different NGOs and civil society organizations about the limitations this legislation imposes on freedom of expression and freedom of the press [4].

The situation regarding **the protection of the right to information** has slightly worsened in 2022 (67% to 71%) mainly due to the fact that appeal mechanisms for denials to access information are not always effective. According to the Global Right to Information Rating, Spain lacks an internal appeal procedure, simple, free of charge and completed within clear timelines. Moreover, in Spain it is not possible to lodge an external appeal next to the independent administrative oversight body (the Council of Transparency and Good Governance) against institutions like the House of His Majesty the King, the Congress of Deputies, the Senate, the Constitutional Court and the General Council of Judicial Power, as well as the Bank of Spain, the Council of State, the Ombudsman, the Court of Accounts, the Economic and Social Council and similar autonomous institutions [5]. Moreover, in its 2022 annual report, the Council for Transparency and Good Government disclosed that during 2021 41,4% of the appeals before the Council were motivated by the fact that the administration on a state level and 73,75% on a regional level did not respond to requests for information. This means that almost half of the petitions for information (Solicitud de Información Pública) on a state level and the wide majority on the regional level were resolved by administrative silence, that is, without the claimed body or entity having issued a resolution within the legally established period. As a consequence, citizens requesting information do not know why the different public entities have rejected their requests [6].

In early 2023 the Spanish Government finally put forward a bill on whistleblowing, declaring that this was a step forward in fighting corruption. Although it is still early to assess its effects, the content of this bill has generated unease among professional associations of journalists and other online platforms such as Hay Derecho, Access Info, Xnet o Transparencia Internacional España. Among other important aspects, these associations claim that it is important to clarify the meaning of public interest and to broaden the scope of the bill, for the protection of whistleblowers depends on it. Adding to this, they claim that the bill should not focus on the intentions of the whistleblowers but on the accuracy of the information disclosed. Informants should also have the right to choose the media they want to collaborate with and they should be granted legal and psychological support if needed.

The indicators on **the Journalistic profession, [its] standards and protection** have suffered barely no variation in 2022 (46% to 48%) and remain of medium risk. As it happened in 2021, the most comprehensive annual report published in Spain on the journalistic profession highlights that the major issue affecting journalists is their working conditions (low wages and job insecurity), which led 24% to 35% of them claiming that they suffer from "serious" or "somewhat serious" mental health disorders. The second major issue pointed out is the lack of media political and economical independence [7]. Regarding this second problem, there are no legal provisions in the Spanish legislation to protect journalists from the pressures they suffer and that in most cases are directed to them from within the media companies themselves. Journalists only have the protection of professional associations, as well as journalists' unions. However, membership is not compulsory for journalists, and the associations do not have the capacity to sanction either. In 2022, journalists had to carry out their work in a climate of growing hostility. Cases of online harassment on social media have increased, affecting mainly women, and physical attacks have also been reported.

Although the situation regarding **the independence and effectiveness of the media authority** has not changed, the authors of this report believe that the assessment of the level of risk involved in the appointment procedure should be more strict. The members of the Spanish regulatory body are appointed by the Government. It is true that the higher chamber (Congreso de Diputados) has the power to veto the nomination, but in order to do so it needs to get the support of the majority of its deputies. In practice, this means that no broad consensus around the composition of this board is required and that no negotiation with the opposition is required for the ruling party/coalition to decide whom to appoint. In order to guarantee the independence of the members of the regulatory body, and especially of its President and vice-President, it would be better to set an appointment procedure requiring a qualified majority voting [8].

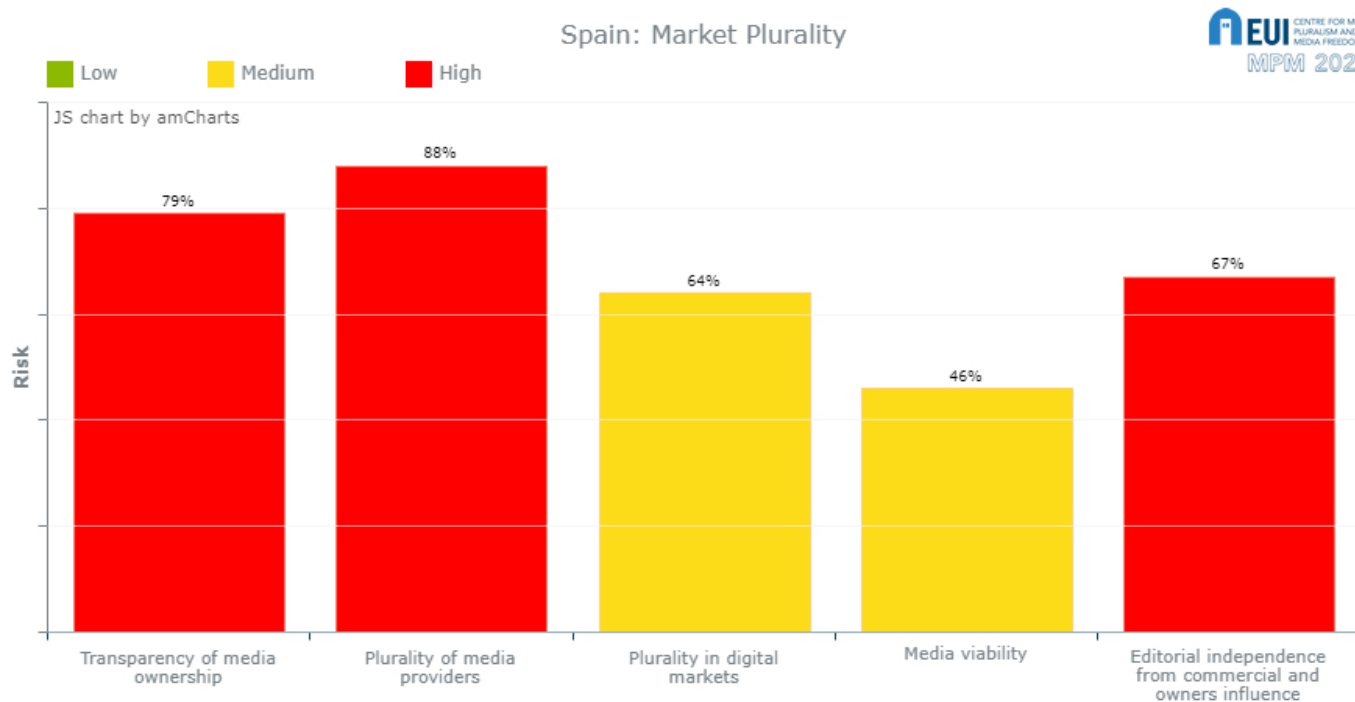
Finally, the indicator that measures **the universal reach of traditional media and access to the Internet** scores low risk (21%). Coverage of public service media (PSM) and broadband is almost universal, which explains why this indicator remains at the same level of risk. However, with regards to Internet Service Providers (ISPs), the market shows high levels of concentration, although it has decreased slightly from the previous year. The percentage of market share of the top 4 ISPs decreased from 92% to 85%, according to data from the National Market and Competition Commission. There have been hardly any complaints about net neutrality during the first half of 2022.

### **Focus on the digital environment**

The protection of freedom of expression improved slightly (medium risk: 46% to 42%) in 2022 as a consequence of the 2022 Supreme Court decision 1.231/2022 of October 3, which prevents the public administration from closing or blocking online websites prior to a court decision. The decision makes it clear that the administration is only allowed to order the closing of the sections of the websites that share contents and/or that offer products and services considered illegal under Spanish law, but not the closing of the whole website. This is a very important step forward when it comes to preventing the public administration from arbitrarily closing and denying access to online content. There are growing concerns about online attacks and harassment against journalists.

### 3.2. Market Plurality (69% - high risk)

The Market Plurality area considers the economic dimension of media pluralism, assessing the risks deriving from insufficient transparency in media ownership, the concentration of the market in terms of both production and distribution, the sustainability of media content production, and the influence of commercial interests and ownership on editorial content. The actors included in the assessment are media content providers, with indicators including Transparency of media ownership, Plurality of media providers, Media viability, Editorial independence from commercial and ownership influence, and digital intermediaries (with the indicator on Plurality in digital markets).



The **Transparency of media ownership** indicator remains at High Risk level considering that the duty of transparency is just applied to the audiovisual sector, but not to any other media sector. The legislative changes from 2022 supported this dualism: the new General Law of Audiovisual Communication (LGCA) [9] was approved with the objective of adopting the Audiovisual Media Services Directive (AVMS) to Spanish law, and this law maintains transparency' obligations similar to the previous law from 2010. Outside of the audiovisual sector, there has been no legal initiative to apply transparency requirements to other media. New variables introduced in 2022 by MPM have a bearing on the lack of financial transparency, and that explains why this indicator has worsened compared to the previous year (from 72% to 79%). Also, the creation of a single registry on real media ownership, whose access is not universal, has not alleviated this lack of transparency in practice.

The indicator on **Plurality of media providers** scores 88%, thus remaining at High Risk level (as in the past MPM implementations), since the high levels of concentration, both of the market and of audiences, are almost identical to those of 2021. Thus, 77% concentration of the audience is recorded in audiovisuals from the Top4 media owners [10], 86% in the case of radio [11], and 86% in the case of newspaper owners [12]. Due to the transparency problems mentioned in the former point, it is very difficult to obtain reliable and independent economic data on concentration levels in economic terms, especially in the absence of a legal obligation and systematic studies carried out by independent institutions, which on occasions obliges to resort to their own calculations based on the available information. It is a situation that occurs year after year, but in 2022 it has been especially serious, especially with regard to the digital sector.

The **Plurality in digital markets indicator** improves slightly compared to 2021 and sets aside the High Risk level (from 71% to 64%). In the year of the assessment, there have been several regulatory changes with potential impact on the digital sector. The main one is the approval of Regulation (EU) 2022/1925, the Digital Markets Act (DMA) [13]. This Regulation requires "gatekeepers" of digital services to report their business concentration processes, with the possibility of receiving sanctions. The Digital Services Act [14] was also approved, but the practical effects of their application in Spain remains to be seen. These regulatory changes are still pending concision in their practical application. The new General Audiovisual Law, approved in 2022 after a long parliamentary process, reasserts the regulation of business concentrations in the audiovisual sector, but without any specific process for the digital dimension of that sector. All these changes, the effectiveness of which remains to be verified, have not prevented that also in 2022, the digital sector from being distraught by opacity and the absence of reliable data on the economic situation and business concentration.

The **Media viability** indicator scores Medium Risk, at 46%. The viability of the media does not show unequivocal signs of improvement, since the available data do not portray a clear picture of the situation, especially due to the impact that very high inflation has received on the income of the media. The audiovisual sector has seen how its income fell compared to 2021, with a growing divergence between open television (whose income fell 6.26%) and paid television (which grew by 11.27%, surpassing inflation) [15]. Radio media expanded at a rate similar to inflation, while revenue from newspapers grew, generally, below inflation, and, as in the case of audiovisuals, with a growing contribution of the digital business over the traditional business paper, which continues the downward trend of recent years. For yet another year, digital native media did not have reliable or global data available. All of this could signal the moment of transformation that the media are undergoing towards increasingly digital models, and in this sense, the initiatives being developed by the media to develop alternative sources of income are noteworthy [16]. However, it is not yet clear that these alternative sources are sufficient to offset the drop in revenue from traditional business. Public subsidies, granted by regional and local administrations, only represent a complement to the income of the media, and in any case, their concession depends on the annual priorities of the institutions, especially with regard to the promotion of the co-official languages. In this context, in 2022, after two years of the pandemic, there was a recovery in the number of employed journalists, with the percentage of unemployed journalists decreasing by 17%. However, the process of losing the purchasing power of their salaries continued, accentuated by average inflation of 8.5%. The new salary agreements signed in 2022 have always been below this inflation. Those who are in a worse situation are freelance journalists, with salaries below 1,500 euros per month. According to a survey by the Federation of Journalists Unions, the working conditions of freelancers have worsened after the Covid-19 pandemic [17].

The **Editorial independence from commercial and owners influence** indicator worsens compared to 2021 (rises from 60% to 67%) and stands at High Risk, also largely due to the methodological changes introduced. These changes especially highlight the absence of specific legislation that divides commercial interests and the interests of media owners from information practices, except in the case of the formal differentiation of advertising and information, and the "clause of conscience", which, although being regulated by law, has hardly been used by journalists. Apart from these cases, the control of journalistic independence is left in the hands of self-regulation, without sanctioning capacity, something that the journalists themselves perceive as clearly ineffective. In this sense, the Annual Report of the Journalistic Profession, prepared by the Madrid Press Association (APM), has once again shown [18], for yet another year, that the interference and pressure endured by Spanish journalists are two of the primary professional challenges.

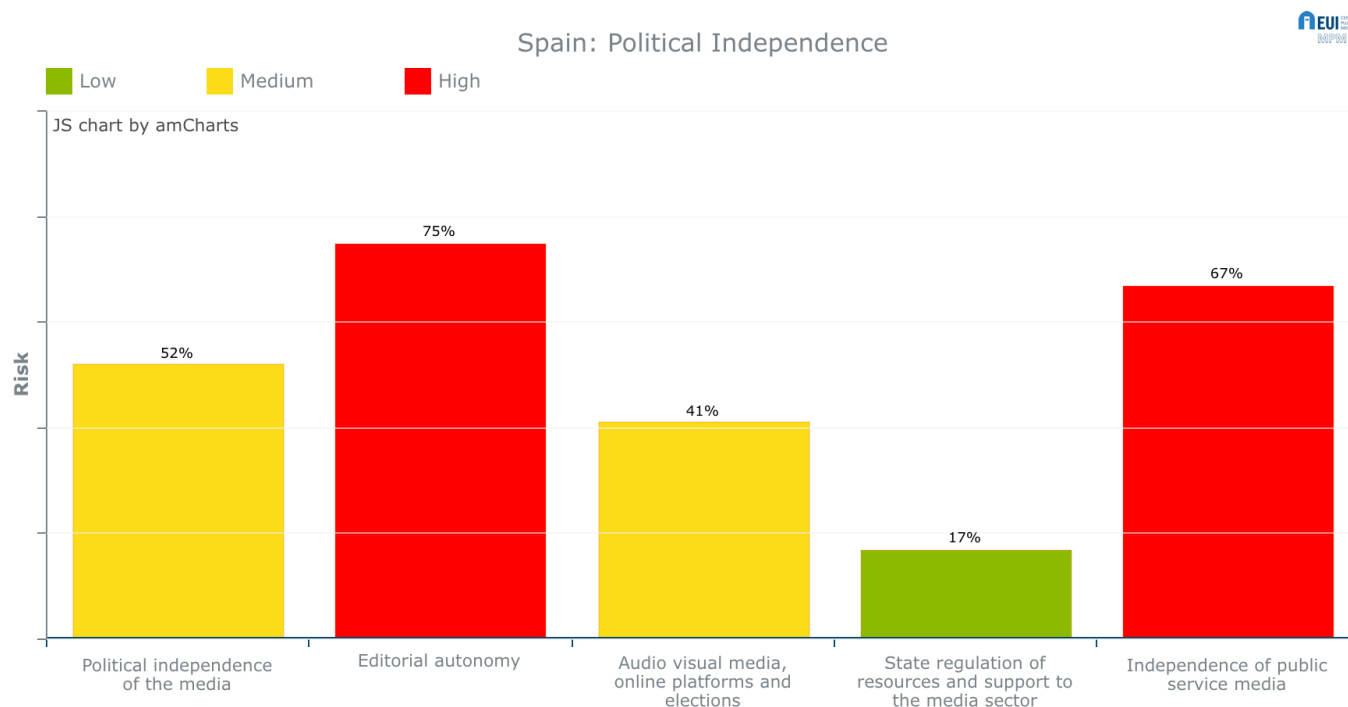


## Focus on the digital environment

The digital sector is becoming increasingly important, both in terms of digital natives and the digital uses of traditional media, something that is clearly perceived this year in the audiovisual and newspaper sectors: their traditional income decreases while income from their digital activities increase, although there is no data to know the real degree of replacement of traditional income by digital ones. In general, it is not possible to specify the weight of the digital sector in the media as a whole, nor the specific economic weight of digital native media in the communication market, due to the almost absolute lack of transparency in this sector, and also because it is not specifically treated as a differentiated economic sector, therefore there are no disaggregated data on its economic activity. Despite the fact that in Spain a specific treatment for this sector is still required, in 2022 two EU Regulations have been approved, the Digital Markets Act and the Digital Services Act, which could improve the regulation of the digital sector in Spain, although their practical application and, therefore effectiveness remain to be seen. For example, the so-called "Google tax", approved in 2020 (Law 4/2020, of October 15, on the Tax on Certain Digital Services), has contributed a total of 240 million euros in 2022, 25% of the amount that was initially provided [19]. 2022 will be the last year of application of the "Google tax" after the agreement signed by the United States with different European countries, including Spain. Pending the application of the new legislation approved, in 2022 there has once again been an alarming lack of reliable data on everything related with the digital sector. In the absence of global market information, there is no data available on the degree of business concentration in digital media, but nothing indicates that the situation described in 2021 by a report from the National Markets and Competition Commission (CNMC) [20] has changed. This former report pointed to a duopoly situation between Google and Meta (70% control of the online advertising market). Audience measurement is also undergoing a period of transition towards reliable and industry-wide accepted metrics. In January 2022, different media and advertisers began to use a new digital audience meter, GfK DAM, to replace Comscore, although the new meter still does not provide global industry data. However, the GfK DAM meter had to change its methodology in November due to errors noted in the accounting of certain online traffic, so even with the new meter we cannot have homogeneous data for 2022 [21]. The lack of transparency already mentioned was highlighted once again with the return to Spain of Google as an intermediary for digital media, after the failed attempt eight years ago to apply a universal rate. Thus, in September 2022, Google Showcase was launched, after reaching agreements with 140 national, regional and local publications, but we do not know the content of these agreements and neither their economic amount [22], since those were in the format of individual and confidential negotiations, with each medium being reunited separate.

### 3.3. Political Independence (50% - medium 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 the public service media. Furthermore, the area is concerned with the existence and effectiveness of (self)regulation in ensuring editorial independence and the availability of plural political information and viewpoints, in particular during electoral periods.



The area of **Political independence** represents an overall situation of medium risk of 50%. Most of the indicators (Political independence of the media, Audio visual media, online platforms and elections, and Independence of public service media) remain at medium risk level. State regulation of resources and support to the media sector is the only indicator at low risk (improving to 17%), and Editorial autonomy continues to be the one with higher level risk (75%).

The indicator **Political independence of the media** scores 52%, in the medium risk band. There exist some general mechanisms to prevent conflict of interests in practice, despite the lack of appropriate regulation. Though denounces of conflict of interests between owners of media and the ruling parties, partisan groups, or politicians are not so frequent, this is not due to effective regulation or control. Moreover, political influence is expressed through different forms in media outlets. Political control over the audiovisual media in Spain, for instance, does not exist through direct or indirect ownership of the media. But this does not mean that political influence is not present in the audiovisual media through institutional advertising or aid. Ownership or control of the main publicly funded news agency (EFE) is considered non-existent, but the appointment of its president depends on the government, so the independence from political influence is not fully guaranteed.

**Editorial autonomy** scores high risk (75%). In Spain, there are political influences on the media, both private and public. This is according to the “Informe Anual de la Profesión Periodística 2021” [23] published in Spanish by the Asociación de la Prensa de Madrid (APM). After various issues related to working conditions, the lack of political or economic independence of the media comes in second place. This is



directly related to the low levels of independence with which journalists can carry out their work and the low level of trust that citizens place in journalists and the media. In regard to the lack of independence of editors, it is very interesting to read the book 'El director', by David Jiménez, former editor of the newspaper 'El Mundo'. The opinion of journalists surveyed for the Report has worsened compared to last year. Whereas before it was 4.6 (on a scale of 1 to 10), it has now dropped by one-tenth of a point, while public confidence has risen slightly from 5.2 to 5.5. The various existing codes and regulations, which aim to guide and protect media self-regulation, work only in part, as their enforcement is largely dependent on the will of media ownership, both private –the vast majority– and public. Since the last MPM, no new elections or relevant political events took place in Spain at the national level. Also, no new laws and regulations have been passed related to PSM.

Since the last MPM, no new elections or relevant political events took place in Spain at the national level. Also, no new laws and regulations have been passed related to PSM. Regarding the indicator on **Audio visual media, online platforms and elections**, the risk continues to be medium (41%). From a strictly quantitative point of view, and with regard to time distribution of news referred to the electoral campaigns, state-owned media traditionally offer a fair representation of the different groups of political actors at both national and/or regional level, depending on the elections. This is due to the strict implementation of the Central Electoral Commission interpretation of section 67 of the LOREG [24], which specifies that political parties must have airtime proportional to their results in the last elections of the same kind. Journalists, however, complain that these fixed rules of airtime go against their professional practice and/or newsworthiness criteria. Moreover, complaints are being made also about the tone and political representation in opinion and analytical programs out of the news. Although airtime is respected and according to former political representation in recent elections, PSM in Spain suffers from the same problem in elections as during usual coverage: political control of its bodies and governance that makes it difficult for its journalists to escape this reality in their reporting. Political parties can buy advertising spaces on commercial audiovisual media, but only on radio, not on television. According to section 58 of the LOREG, all advertising spaces must expressly state their political nature.

The indicator on **State regulation of resources and support to the media sector** has improved to 17%, maintaining the Low Risk. In Spain, in the case of radio and television, the authorisation or assignment of spectrum is indicated by the approval of the corresponding technical plan and, depending on the coverage of the provision of the service (national, regional or local), the assignment of spectrum to the licensees is carried out by the State or by the authorities of each of the Autonomous Communities (for regional and local coverage). State subsidies to media organizations have a long tradition in Spain. The state subsidies to media organizations are regulated by Law 29/1984 of August 2 regulating the granting of aid to Journalistic Companies and News Agencies [25]. There is direct and indirect aid, the former being the most controversial. Also, since the 1980s, there have been language-related direct subsidies aimed at fostering the co-official languages, like Catalan. Law 29/2005 of December 29 on Institutional Advertising and Communication [26] obliges to make public an Annual Advertising Institutional Plan that includes all the institutional campaigns carried out, their amount, the awardees of the contracts and, in the case of advertising campaigns, the corresponding media plans. However, the official annual reports by the Government do not explain the amount of public money that every media receives. Consequently, somehow, the information is opaque for public funds for that purpose, and problems regarding transparency and alleged discretionary allocation practices have been reported.

The indicator **Independence of public service media** increased to high risk (67%). In theory, the current Spanish law includes sufficient mechanisms to preserve the independence of the PSM. However, the law is

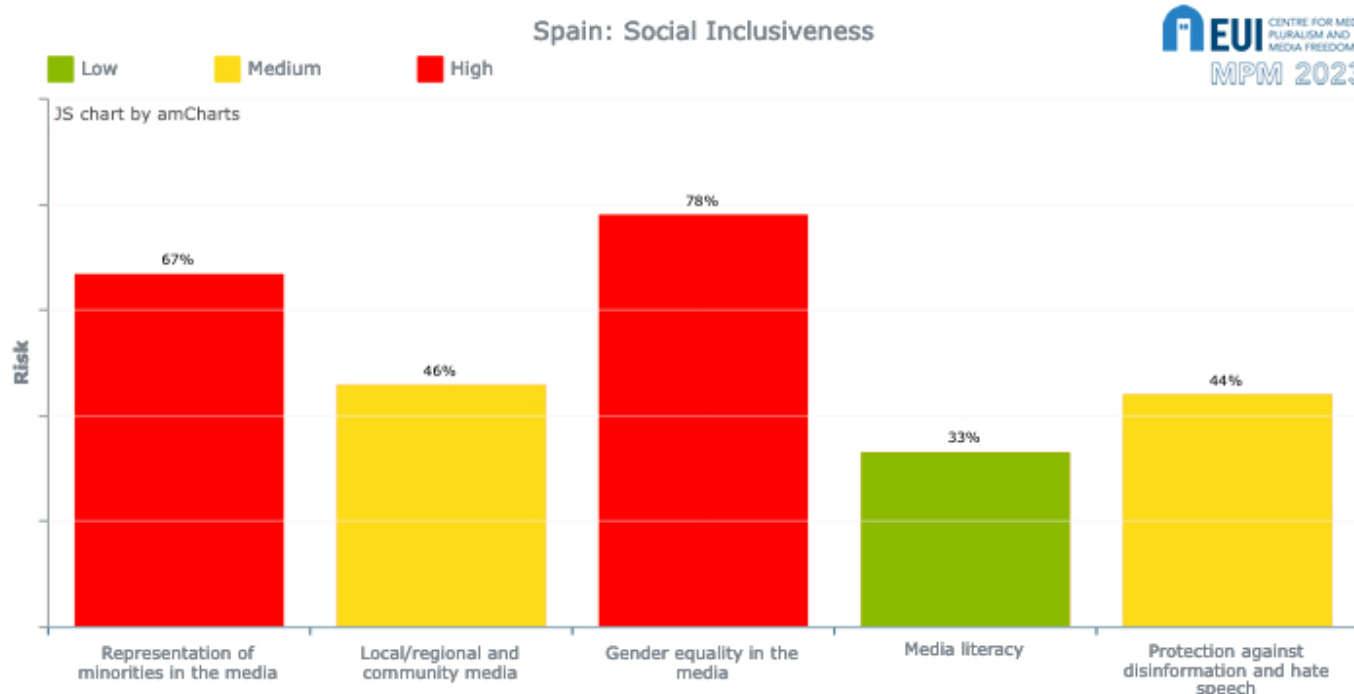
powerless to stop partisan interference. A new example of this occurred in 2022, when the president of RTVE's board of directors, José Manuel Pérez Tornero, the first one elected following the law 5/2017, of September 29, resigned as he considered that he had lost the confidence of the parties that integrated the coalition government presided by Pedro Sánchez, PSOE and Unidas Podemos [27]. The aim of the law was to reinforce the independence of the RTVE corporation. Despite legislative efforts, in practice governments and parties continue to exert pressure and influence on the top management of public media at state, regional and local levels.

### **Focus on the digital environment**

Regarding the area of Digital Political Independence, the risk is medium, with a score of 60%. Digital native media can be considered as easily influenced media and vulnerable to media pressure due to their economic weakness. The law does not establish limits to online political advertising, nor obligations of political parties in the disclosure of these advertising expenditures. In addition, it does not limit the collection of personal data by political parties, allowing practices such as microtargeting. The situation regarding what can and cannot be done in online political advertising is ambiguous. The current legislation on this matter is the modification of Article 58 bis of Law 29/2005 of December 29 on Institutional Advertising and Communication [28] made through Organic Law 3/2018, of December 5, 2018, on Personal Data Protection and Guarantee of the Digital Rights. Barely three months after the law was passed, the Spanish Data Protection Agency (AEPD, for its initials in Spanish) published a statement (Circular 1/2019, dated March 7) [29] on its interpretation, to express the concerns raised by the amendment. Finally, advertising in PSM is banned according to Law 8/2009, which includes RTVE website, therefore free of advertisements. This implies that RTVE does not distort competition with online private media actors, but also reinforces the lack of sufficient funding of PSM.

### 3.4. Social Inclusiveness (54% - 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. Finally, it also includes new challenges arising from the uses of digital technologies, which are linked to the Protection against disinformation and hate speech.



**Social Inclusiveness** has a risk score of 54%, considered medium risk. Concerning the MPM 2022 results, this represents a decline of 9 percentage points.

The indicator **Representation of minorities in the media** has been rated high with 67%, four points higher than the previous edition. Because of a restrictive interpretation of the Council of Europe's Framework Convention for the Protection of National Minorities in Spain there is no recognition of minorities. According to article 28 of Law 17/2006 of June 5 on public broadcasting (radio and television stations owned by the state), RTVE has to ensure that its programming represents the social, ideological, political, and cultural diversity of Spanish society. Nevertheless, to give one example, few programs are dedicated to religious minorities and tend to be short (15 minutes per week). Additionally, pro-Catalan language NGO Plataforma per la Llengua states that the use of Catalan is declining among young people and advocates exerting pressure on multinational companies such as Netflix, HBO, and Disney to include Catalan content.

Concerning access to media for people with disabilities is concerned, the risk is low. A significant advance was made in the recognition of the right of people with disabilities to access media content with the approval of new General Law of Audiovisual Communication. Whatever the case, it is important to note that Spanish legislation regarding the provision of services for people with disabilities focuses on Digital Terrestrial Television. To summarize, and directly quoting Gregorio Saravia, expert and State CERMI Delegate for Human Rights and UN Convention on Disability: "In Spain, there are still serious deficiencies in regard to the accessibility of audiovisual media for persons with disabilities."

The indicator **Local/regional and community media** is considered a medium risk with 46%. As a public good, the radio spectrum is owned, planned, managed, and controlled by the government. Specifically, this is stated in article 43 of Law 32/2003, dated November 3, on General Telecommunications. Spanish

management is regulated by the provisions of this title and international treaties and conventions to which Spain is part. The final decision at the regional and local levels is reserved exclusively for Autonomous Communities. There are also regulations governing the coverage of audiovisual media at the state level. In that sense, the law provides regional/local media access to media platforms and is effectively implemented, and the state supports regional/local media with adequate subsidies . Nevertheless, subsidies are distributed to media based on a set of criteria, but whether they are fair remains unclear. The most obvious example is the distribution of institutional advertising.

Regarding community media, neither the law guarantees their independence nor does the state provide subsidies. Consequently, community media in the country are not fully independent, despite their presence. In practice, the majority of community media - especially radios - are broadcasting illegally. Locally, the Xunta de Galicia, the regional government of Galicia, ordered that the main community radio station in the region cease broadcasting. Contrary to this, the Catalan Parliament has released a decree regulating community media for public consultation.

The indicator **Gender equality in the media** is considered high risk at 78%, five points down with respect MPM 2022. The three public media analysed (RTVE, CCMA and EITB) have up-to-date equality plans [32] [33] [34], but the wage gap persists [35] [36] [37]. Since September 2022, Elena Sánchez Caballero has been the acting Chairwoman of the Board of Directors and Interim President of RTVE. [38] [39] Still, the presence of women in executive positions and as members of management boards is far from being balanced, neither in public nor in the private media. [40] [41] Concerning the representation of women in the media and their participation as expert voices in news and political programmes, according to the available records [42] [43] [44] [45], the situation is practically the same compared to the previous year: women do not have a balanced presence in the media. Because this issue directly affects the rights and the capacity for action and agency of 50 per cent of citizens, this variable is assessed as high-risk.

The risk associated with the **Media literacy** indicator is low (33%). According to Eurostat, 64% [46] of the Spanish population has basic or above basic overall digital skills. Organic Law 3/2020, of 29 December, which amends Organic Law 2/2006, of 3 May, on Education, proclaims that digital literacy, understood as the development of a critical sense and the incorporation of basic technological skills, should be objective at all educational stages. The legislation that develops this organic law defines these competencies, which include the safe, healthy, sustainable, critical and responsible use of digital technologies for learning, work and participation in society, the creation of digital content (including programming), security (including digital well-being and cybersecurity-related competences), issues related to digital citizenship, privacy, intellectual property, problem-solving and computational and critical thinking. This Organic Law will come fully into force during the academic year 2023-2024

In July 2022, the new Law 13/2022 of 7 July on General Audiovisual Communication entered into force. Article 10 of this law is dedicated to digital literacy, defined as "developing competencies, knowledge, skills and attitudes of understanding and critical appraisal that enable citizens of all ages to use the media effectively and safely, to access and critically analyse information, to discern between facts and opinions, recognise fake news and disinformation processes and create audiovisual content responsibly and safely". In its point 1, the law states that all actors involved "shall take measures for the acquisition and development of media literacy skills in all sectors of society and shall periodically evaluate the progress made". This law follows Directive 2018/1808, published in the Official Journal of the European Union on 28 November 2018.

It is expected that the changes implied by both laws will lead to improvements in this area, which will be evaluated in future reports.

Many media literacy activities concerning vulnerable groups seek to improve physical access to connectivity and technology. It is necessary to highlight the exclusion suffered by older people: for many, the technification and digitalisation of society are making it very difficult, if not impossible, for them to access banking institutions, carry out procedures related to their health and interact with the administration [47].

### Focus on the digital environment

Having achieved a score of 44%, the **Protection against disinformation and hate speech** indicator is considered medium risk. However, it should be noted that many of the questions used to assess this variable have changed since last year. Therefore the results are not directly comparable, nor should the drop in percentage be interpreted strictly as an improvement.

Over the last year, the Spanish government has taken significant steps to involve civil society in the fight against disinformation. In October 2022, the Forum against disinformation campaigns in National Security was constituted [48]. The Forum plenary comprises six people representing the General State Administration and ten representing civil society organisations. Also, it seems important to note that four of the leading Spanish fact-checking organisations (Fundación Maldita, Verificat, Newtral and EFE Verifica) are verified members of the European FactChecking Standards Network (EFCSN) but have also been part of the various working groups that have driven and developed the project [49].

Academic research on issues related to misinformation is widely present in Spanish universities. At the European level, Spain also participates in the Iberifier Observatory (promoted by the European Commission) and in the Task Force on ESS strategic communication, formed by the National Statistical Institutes (NSIs) and Eurostat.

The percentage of trust in the media in Spain only reaches 42% [50]. All indicators show that misinformation is a severe problem: 81 % of Spanish citizens often encounter news that, in their opinion, distorts reality or that they even consider false, and 82% of Spaniards assume that disinformation is a problem for their country and democracy in general [51].

The list of laws and policies to counter online hate speech in Spain is long, starting with Article 510.1.a) of the Penal Code, which defines and penalizes hate speech and considers its commission through the Internet or other widely disseminated media aggravating circumstances. Also, Spain promotes and participates in various national and international projects. However, it is estimated that the under-reporting rate ranges between 80 and 89%: victims feel that it will not make a difference, as well as the difficulty of reporting and the lack of trust in the police and institutions. On the other hand, the lack of training of State security forces means that reports of acts that could constitute hate crimes are transformed in the subsequent proceedings into a simple offence of injury or some other type of offence as the hate motivation for the offence disappears [52] [53].

## 4. Conclusions

Media pluralism in Spain remains in an overall situation of medium risk. Except Market Plurality, which scores high risk, all other areas remain in similar medium risk levels. In general terms, it can be stated that the situation in Spain has been stable during recent years, with some worsening of risks to media pluralism because Covid-19 effects and some laws and regulations approved in previous years that endangered freedom of expression and the daily conditions of media professionals. While Covid-19 effects have been generally mitigated, the legal and professional situation has seen neither great improvements nor relevant declines, so the situation of the country remains in a stalemate of medium risk. As it will be seen in the conclusions, some of the main risks to media pluralism can be considered as systemic, in the sense that mitigating them will necessarily imply great transformations of the media system and business models. Others, however, can be more easily mitigated through policy reform.

**Fundamental Protection** continues to have one of the main areas of concern, Protection of Right to Information (71%) . Appeal mechanisms for denials to access information are not always effective, as it has been stated by the Global Right to Information Rating. The current lack of protection and clear mechanisms for access to information means that, according to the Council for Transparency and Good Government during 2021 41,4% of the appeals before the Council were motivated by the fact that the administration on a state level and 73,75% on a regional level did not respond to requests for information. This situation of administrative silence and lack of protection is particularly concerning. Moreover, legislation such as the Law 4/2015 of March 30, on Protection of the Citizen' Security (commonly known as Gag law), has not been amended or derogated, so the limitations on freedom of expression and freedom of the press remain existing despite governmental supposed intentions of reform. Similar situation can be seen regarding articles 490 and 491 of the Penal Code that criminalize libels and insults to the monarch or to members of the royal family. The application of such articles in recent trials led to prosecution and imprisonment of several musicians, as well as probable cases of self censorship considering the high measures applied by courts of justice. Last but not least, working conditions for journalists remain as well as standards and protection remain at medium risk (low wages and job insecurity, together with increasing cases of online harassment).

### *Recommendations*

- Spain needs to approve legislation that ensures all public bodies are obliged to ensure access to information, improving appeal mechanisms.
- The government coalition should promote and implement changes in the current laws that endanger freedom of expression and information.
- Journalists need to be more protected, both on an economic and personal level, to avoid pressures and influences. There is a general need to improve salaries and economic conditions as well as to strengthen existing unions and self-regulatory bodies.

**Market Plurality** is the only area that is considered of High Risk. Media concentration is the main point of concern here, with percentages of concentration from 77% to 86% (on advertising and audience concentration) depending on the media market. This is a systemic problem of the Spanish media system



that has been described in past editions of the Media Pluralism Monitor. This issue goes hand-by-hand with the problem of lack of transparency of media ownership and financial transparency, especially acute regarding online markets. The lack of reliable data is an problem, as in many markets, the assessment of concentration could be better done if legal obligations of information disclosure were effective. In this regard, recent new legislation may be of use, although more time is needed to study its effects. For example, the Digital Services Law includes obligations for "gatekeepers" of digital services to report their business concentration processes, with the possibility of receiving sanctions. Regarding media viability, high concerns exist related to news media business models. The television market presents a double reality, with open television reducing income while paid television grows around 11%. While radio markets expanded at similar rates than inflation, press markets did it below, with digital sections still attempting to found reliable business models that might replace or contribute to more traditional business models.

### *Recommendations*

- Adopt legislative mechanisms to ensure transparency of media ownership and financial situation, with the obligation to publish reliable data
- Control media concentration, both in audience and advertising revenues

The **Political Independence** area scores medium risk. Editorial autonomy is the main area of concern (75%). Spain continues to be a country in which journalism receives many pressures and controls from political and financial actors. Spanish journalists acknowledge this in different studies conducted, especially in the annual report of Madrid Press Association. Political and economical influences are normally highlighted as the second main threat or concern regarding journalists' job, after bad working conditions, normally associated with low salaries. Similarly, research conducted in Spain shows that low levels of citizens' trust on journalism and media institutions is due to the fact that citizens identify it as a profession that lacks editorial autonomy. This also affects public service broadcasting, which suffers from even greater political influences. Apparently, Spanish laws both at central and regional level include normally sufficient safeguards to ensure independence of the PSM. However, even with the most efficient mechanisms can do nothing when political culture makes political parties to continue to share and distribute seats or block the renovation of direction boards.

### *Recommendations*

- Strengthen the authority of self-regulatory bodies and professional associations to better counter political and economic pressures in private media
- Ensure political independence of public service broadcasters

**Social Inclusiveness** presents really different levels of risk. For example, Gender equality in the media scores a high risk of 78%. The three main public service broadcasters (Spanish RTVE and Catalan CCMA and basque EITB) have up-to-date equality plans, as well as training plans for gender equality and protocols to prevent and act in cases of sexual harassment. However, this is not the case in other media. Also, there

continue to exist in the media industry a relevant wage gap between women and men. This affects both private and public media. Of high concern is also the representation of women in the media as experts in news and political programmes. The situation continues to be similar than in past MPMs editions as is as a result evaluated as high risk. The other area of high risk refers to the representation of minorities in the media (67%). This is mainly due to the restrictive interpretation of the Council of Europe's Framework Convention for the Protection of National Minorities, as the Spanish government has explicitly denied the existence of national minorities in Spain, despite the relevance of some communities with their own language or religious minorities. Furthermore, in Spain continues to exist serious deficiencies in regard to the accessibility of audiovisual media for persons with disabilities. Worth mentioning here is also the situation of community media. Despite being recognized by law, no community radio or television has been licensed since the law was enacted. In the meantime, these media are broadcasting illegally.

### *Recommendations*

- Implement actions to ensure a more fair presence of women in directive positions, as well as actively work to reduce the existing wage gap.
- Legislate to increment the presence of regional languages in both private and public media, including in streaming video platforms.



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## ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2023 CT Leader
<i>Jaume</i>	<i>Suau</i>	<i>Profesor</i>	<i>School of Communication and International Relations. Ramon Llull University</i>	X
<i>Pablo</i>	<i>Capilla García</i>	<i>Profesor</i>	<i>School of Communication and International Relations. Ramon Llull University</i>	
<i>David</i>	<i>Puertas Graell</i>	<i>Researcher</i>	<i>School of Communication and International Relations. Ramon Llull University</i>	
<i>Miguel</i>	<i>Franquet</i>	<i>Researcher</i>	<i>School of Communication and International Relations. Ramon Llull University</i>	
<i>Elena</i>	<i>Yeste Piquer</i>	<i>Profesora</i>	<i>School of Communication and International Relations. Ramon Llull University</i>	
<i>Marçal</i>	<i>Sintes-Olivella</i>	<i>Researcher / Professor</i>	<i>School of Communications and International Relations. Ramon Llull University</i>	
<i>Lidia</i>	<i>Cordero Triay</i>	<i>Investigadora</i>	<i>School of Communication and International Relations. Ramon Llull University</i>	
<i>Roger</i>	<i>Valsells</i>	<i>Researcher</i>	<i>Blanquerna School of Communication and International Relations. Ramon Llull University</i>	

## ANNEXE II. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and experience in the field of media. The role of the Group of Experts was to review especially sensitive/subjective evaluations drafted by the Country Team in order to maximize the objectivity of the replies given, ensuring the accuracy of the final results.

First name	Last name	Position	Institution
<i>Joan</i>	<i>Barata</i>	<i>Academic</i>	<i>The Center for Internet and Society. Stanford University</i>
<i>Nuria</i>	<i>de Jose</i>	<i>Vice-Dean</i>	<i>Union of Journalists</i>

<i>Marti</i>	<i>Petit</i>	<i>Head of Research</i>	<i>Catalan Regulatory Authority</i>
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