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From rhetoric to regulation: EMFA and media concentration in the digital age

This article examines the evolving political discourse and practices surrounding media pluralism within the European Union (EU) in light of the European Media Freedom Act (EMFA), which mandates that Member States evaluate the impact of media market concentrations on media pluralism. Through analysis of key EU legislative and policy texts the article explores how media concentration is addressed, with a particular focus on two smaller Member States (Croatia and Slovenia) where outdated laws and the lack of data to assess media pluralism pose significant challenges. The findings highlight the difficulties in ensuring the effective and harmonised implementation of EMFA provisions across the EU, especially in the face of digital platforms' growing dominance over content distribution and public discourse. The article argues that without clear, comprehensive guidance and coordinated efforts to ensure consistent enforcement across Member States, the regulation may fall short in effectively addressing the risks posed to media pluralism, particularly in the rapidly evolving digital environment.

Media pluralism – Media concentration – EMFA – Harmonisation – Enforcement

Dalla retorica alla regolamentazione: EMFA e la concentrazione dei media nell'era digitale

Questo articolo esamina l'evoluzione del discorso politico e delle pratiche relative al pluralismo dei media all'interno dell'Unione europea (Ue) alla luce dello European Media Freedom Act (EMFA), che impone agli Stati membri di valutare l'impatto delle concentrazioni nel mercato dei media sul pluralismo dei media. Attraverso l'analisi di testi legislativi e politici chiave dell'Ue, l'articolo esplora come viene affrontata la concentrazione mediatica, con particolare attenzione a due Stati membri più piccoli (Croazia e Slovenia), dove leggi obsolete e la mancanza di dati per valutare il pluralismo dei media rappresentano sfide significative. I risultati evidenziano le difficoltà nel garantire un'attuazione efficace e armonizzata delle disposizioni dell'EMFA in tutta l'Ue, specialmente di fronte alla crescente posizione dominante delle piattaforme digitali nella distribuzione dei contenuti e nel discorso pubblico. L'articolo sostiene che, senza orientamenti chiari e completi, e sforzi coordinati per garantire un'applicazione uniforme tra gli Stati membri, la regolamentazione potrebbe non riuscire a contrastare efficacemente i rischi per il pluralismo dei media, in particolare in un ambiente digitale in rapida evoluzione.

Pluralismo dei media – Concentrazione dei media – EMFA – Armonizzazione – Applicazione

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1. Introduction

Until recently, the European Union (EU) avoided steering regulation of media concentration. There were some attempts, but they failed due to resistance from Member States, which viewed such interference as a threat to their subsidiarity in the media sector. It was believed that this would undermine their sovereignty in pursuing their own social, democratic, and cultural goals within their national media landscapes. The European Commission refrained from advocating for strict regulation, favouring instead the view that regulation should not impede the growth of the European media industry. The goal was to foster the emergence of European champions capable of competing with much larger U.S. companies, which benefit from economies of scale and lighter regulatory frameworks¹. However, this approach backfired, as the integration of the European market largely benefited the American audiovisual industry². At the same time, the findings of the Media Pluralism Monitor³ reveal an overall decline in media pluralism across EU countries. This suggests that insisting on subsidiarity in media-related

matters has not led to enhanced media pluralism at the national level.

With the adoption of the Regulation (EU) 2024/1083⁴, the EU has set a clear mandate for Member States to regulate the impact of media concentration on pluralism. For countries with ineffective or non-existent frameworks to assess media concentration, this presents both an opportunity and a challenge. In the circumstances of already highly concentrated national media markets⁵ the EMFA provides an external push to establish or strengthen regulatory mechanisms, assigning direct or participatory responsibilities to national media regulatory authorities. This opportunity is however shadowed by the fact that new regulations will not have retroactive effects. The problem is further deepened by the growing dominance of global digital players. Acting as gatekeepers, they continue to reshape business models and user behaviour, what makes traditional media concentration concepts and regulatory approaches based on national markets and ownership restrictions increasingly outdated. National regulatory frameworks, although intended to safeguard media pluralism, are limited in their capacity to

1. EUROPEAN COMMISSION 2005.

2. EAO 2023.

3. BLEYER-SIMON et al. 2024.

4. European Parliament and Council of the European Union, [Regulation \(EU\) 2024/1083](#) establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act). Official Journal of the European Union, L 177/1.

5. BLEYER-SIMON et al. 2024; CARLINI 2024.

counter the influence of cross-border platforms that operate beyond national regulatory reach. As Picard and Pickard noted⁶, national policies alone are inadequate in addressing the challenges of a globalized communication environment – an issue that is especially pressing for smaller states, which are even more vulnerable to external pressures and often lack influence in international policymaking⁷. From a broader perspective, recent scholarship emphasizes the need for new regulatory approaches⁸ as regulation risks falling short unless it addresses broader «concentration trends driven by datafication, digitalisation, and platformisation of the media ecosystem»⁹.

Since the success of the EMFA depends on how well the EU Member States can adapt their existing media concentration frameworks and how well national regulators can enforce them in a harmonised way, by taking into account the digital dimensions of the problem, this study examines how media concentration frameworks of EU Member States are adapting following the adoption of the EMFA. Employing document analysis and case studies, the research specifically focuses on small states (i.e., Croatia and Slovenia) as they are facing different challenges in comparison with their larger counterparts with stronger media industries.

The first section offers an overview of the evolution of EU media pluralism and concentration policies, emphasising key legislative milestones and discursive highlights, from the 1992 Green Paper to 2024 EMFA. The second section, where the research design and method are outlined, is followed by the third section, which presents case studies of Croatia and Slovenia – two countries that are comparable in size, market dynamics, and historical background. The fourth section discusses the findings, placing them within the context of

a communication environment increasingly dominated by digital platforms. The article concludes with recommendations to improve enforcement mechanisms through collaborative platforms, ensuring more consistent protection of media pluralism across Member States.

2. Moving target of the EU media policy

Member States, along with supranational entities like the European Commission, the European Parliament, and the Court of Justice of the European Union (CJEU), hold diverse opinions and exert varying levels of influence over EU media policies and regulations – and media pluralism is no exception. Historically, media pluralism has been a highly contentious issue, with numerous unsuccessful regulatory efforts dating back to the 1990s¹⁰. Despite being regarded as one of the foundational principles of liberal democracy¹¹ and widely accepted in contemporary normative media theories, public sphere theories, and media policies, pluralism is rarely examined as a distinct value¹². This opens the door for it to be framed through an economic lens rather than a social or democratic one, allowing it to be used in support of various, often divergent, goals¹³. argues that the concept of media pluralism should not be confined to merely diversity of choices but must also encompass the structural power relations within the media ecosystem, particularly the struggles over the framing of public discussions and decisions shaping media ownership and system architecture. Yet, public discourse often reduces media pluralism to a narrow focus on media ownership. A common theme is the central role of media concentration¹⁴ as high levels of concentration in media ownership are widely believed to restrict the range of voices and viewpoints present in the media.

6. PICARD–PICKARD 2017.

7. BALDACCHINO–WIVEL 2020.

8. BROGI et al. 2023; SEIPP 2023; TRAPPEL–MEIER 2022; BEYER 2018.

9. SEIPP 2023, p. 393.

10. HARCOURT 2005; DOYLE 2007; KARPPINEN 2007.

11. MOUFFE 2000, p. 18.

12. KARPPINEN 2007.

13. KARPPINEN 2013.

14. TRAPPEL 2022; VALCKE 2011.

2.1. Green papers, studies, and expert groups

The 1992 Green Paper on Media Pluralism and Concentration¹⁵ was one of the Commission's earliest responses to the growing concerns about media concentration. It proposed several recommendations aimed at promoting media pluralism and considered legislative options to harmonize media regulations across Member States. However, it encountered significant resistance, particularly surrounding the question of the EU's competence in regulating media matters – traditionally in the domain of Member States. As a result, despite the recognition of the importance of media pluralism, the proposals were shelved.

In 2007, the Commission sought to relaunch the debate on media pluralism through the «three-step approach towards advancing the debate on pluralism within the European Union»¹⁶. This initiative envisaged a working document, independent study, and plan for a policy communication on media pluralism indicators. While the first two were completed successfully, the final step was never pursued. Although this approach demonstrated the EU's ongoing interest in media pluralism, it did not result in the adoption of any regulations, nor did it lead to the issuing of a Commission Communication. The non-binding nature of this initiative underlined the continued reluctance at the time to move toward regulatory harmonisation in such a politically sensitive area.

The High-Level Group on Media Freedom and Pluralism, established in 2011, was another effort to assess and strengthen media freedom and pluralism across Europe. In 2013, the group produced a report with a range of recommendations¹⁷, but their implementation remained largely dependent on the willingness of individual Member States and varied significantly across the EU, demonstrating again the challenges in achiev-

ing a cohesive, EU-wide regulatory framework for media pluralism.

2.2. From television without frontiers to Audiovisual Media Services Directive

In the processes of 1997 and 2007 revisions of Television Without Frontiers Directive (TVWFD¹⁸), discussions around media pluralism played an important role, but they did not lead to any regulatory framework or action. The first revision primarily focused on regulating advertising, while the second one largely aimed at expanding the directive's scope to ensure a level playing field between linear and non-linear audiovisual media services and relaxing the rules on advertising. While media pluralism was part of the debate, especially in the context of safeguarding diverse content in an increasingly liberalised market, the revision did not include binding measures to address media concentration or guarantee media pluralism across Member States. As demonstrated in my previous research¹⁹, among the main topics discussed by stakeholders, media pluralism got the least attention and there was minimal support for including it in the new audiovisual regulatory framework. Contributions primarily came from national institutions, telecom companies, and to a lesser extent, commercial broadcasters, public broadcasters, and civil society. Interestingly, during the revision process that took part between 2003 and 2007, the European Parliament (EP) placed greater emphasis on issues like product placement rather than media pluralism; in EP reports, product placement was referenced over 150 times, whereas media pluralism received significantly fewer mentions²⁰.

This indicates a broader pattern where pluralism is overshadowed by discussions around the market, with a common belief that an open,

15. EUROPEAN COMMISSION 1992.

16. EUROPEAN COMMISSION 2007.

17. VĪĶE-FREIBERGA et al. 2013.

18. European Parliament and Council of the European Union, Directive [97/36/EC](#) amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation, or administrative action in Member States concerning the pursuit of television broadcasting activities (Television Without Frontiers). Official Journal of the European Union, L 202/60.

19. KERŠEVAN SMOKVINA 2014.

20. *Ibidem*.

competitive market ensures media freedom and diversity. This narrative was particularly evident in the speeches of Commissioner Viviane Reding and, to a slightly lesser extent, European Parliament Rapporteur Ruth Hieronymi, where deregulatory efforts were framed as advancing normative ideals such as media freedom and pluralism²¹. Both officials used terms like media freedom, pluralism, and diversity interchangeably²². Diversity typically carried a more tangible meaning, while pluralism was presented as a broader social value²³. Reding, for instance, frequently linked economic liberalisation, such as the deregulation of advertising, with the promotion of media pluralism²⁴. In one typical example, she defended the deregulation of product placement, arguing that «responsible advertising is the economic foundation of a pluralistic media landscape»²⁵. In the final text of the revised TVWF, later consolidated into Directive 2010/13/EU²⁶, media pluralism is referenced six times in the recitals, but the operative text lacks provisions addressing structural factors, such as media concentration.

In the subsequent revision of the Audiovisual Media Services Directive (AVMSD), media pluralism was once again a point of discussion, as the EU sought to address the growing concerns about media concentration and the dominance of global digital platforms. In the final text of the 2018 AVMSD, media pluralism – much like in the 2007 AVMSD – is mentioned six times in the recitals, but the operative provisions (Article 5(2)) are limited to ownership transparency. These provisions allow Member States to introduce laws requiring media service providers to disclose their ownership structures, including beneficial owners, while ensuring the protection of fundamental rights, such as privacy and family life, for those own-

ers. While these media ownership transparency provisions were a step forward, critics argue that the AVMSD fell short of addressing the deeper structural issues related to media ownership and control, particularly as digital platforms continued to grow in influence²⁷. This period illustrates further EU struggle to reconcile liberal market principles with the need for regulation that protect democratic values, such as media pluralism, in an increasingly complex media environment.

2.3. European Media Freedom Act

In 2024, the EMFA finally introduced an EU response to the risks posed by media concentration and its potential impact on media pluralism and editorial independence. The EMFA mandates that Member States establish both substantive and procedural rules to assess media market concentrations that could negatively affect pluralism; these assessments must be conducted in a manner that is transparent, objective, proportionate and non-discriminatory, based on the criteria set in advance (Article 22(1)), ensuring fairness across the EU's diverse media landscapes. When assessing media market concentrations, the following elements must be considered: the impact on media pluralism, including diversity of services and influence on public opinion; safeguards for editorial independence; the economic sustainability of the parties involved; relevant findings from the Commission's Rule of Law report on media pluralism and freedom; and any commitments offered by the parties to safeguard pluralism and editorial independence (Article 22(2)).

The framework is based on cooperation between national regulatory authorities (NRAs) and the newly created European Board for Media Services (Articles 8-13). The NRAs are central to

21. *Ibidem*.

22. *Ibidem*.

23. KARPPINEN 2007.

24. KERŠEVAN SMOKVINA 2014.

25. REDING 2006.

26. European Parliament and Council of the European Union, Directive [2010/13/EU](#) on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive). Official Journal of the European Union, L 95/1.

27. NENADIĆ–MILOSAVLJEVIĆ 2021.

this process, tasked with conducting (or participating in) assessments of media market concentrations within their jurisdictions (Recital 65). Their independence is essential, as highlighted in the EMFA (Recital 36), which stipulates that NRAs must have the necessary staffing, financial resources, and technical expertise to function effectively (Article 7(3)). NRAs are also empowered to request information from media companies ((Article 7(4)). The Board (together with the Commission) plays an advisory and supervisory role, offering technical expertise, fostering cooperation among NRAs, and facilitating the exchange of information. While its opinions are non-binding, the Board has the authority to review and offer feedback on national actions and rulings that affect media markets and concentration (Article 22 (3-6)).

Although these provisions represent a significant and tangible shift from earlier attempts that were largely rhetorical, the discursive elements remain relevant for further study. The Act mentions terms pluralism and plurality 60 times in total, 48 times in the recitals and 12 times in the operative provisions. Media concentration is referred to 51 times in total, 30 times in the recitals and 21 times in operative provisions. In explaining the motivation behind the proposed model, market dimensions are still at the forefront, but the framing has changed. Instead of the previous avoiding of regulation of media concentration in the name of media pluralism – where excessive regulation was thought to hinder market development, which was considered the best guarantee for preserving pluralism – there is now a noticeable emphasis on the necessity of regulating media concentrations, but with a highlight on ensuring harmonisation across Member States to avoid the existing variance and inconsistencies that could impede the functioning of the internal market and distort competition (e.g., Recital 62). This more nuanced discourse correlates with the evolving complexities in the media ecosystem, where efforts to preserve media pluralism at the national

level intersect with the broader challenges at the supra-national level.

3. Research design and rationale for cases selection

This study investigates and compares the cases of Croatia and Slovenia, which are overlooked in media policy research. In international benchmarks, small countries are either rarely present or sometimes grouped with larger media markets²⁸ that do not share their unique challenges. While Slovenia and Croatia differ in national language – with Slovenian having few speakers outside the country, whereas Croatian is mutually intelligible with the languages of three other former Yugoslav countries, allowing its media industries to extend more easily across national borders – they share several important characteristics beyond their “smallness”. Both were units of the Socialist Federal Republic of Yugoslavia, gaining independence in 1991 and later joining the European Union – Slovenia in 2004 and Croatia in 2013. In the former Yugoslavia, they were the most democratically and economically advanced republics and remain the only two successor states to have joined the EU. In international classifications, both countries appear in the category of small states²⁹. With population of 2.1 million, Slovenia is at the lower end of this category in the European Union, while Croatia’s population is nearly 3.9 million. In economic terms, Slovenia generally performs better. In 2023, Slovenia’s GDP per capita was €30,158³⁰, compared to €19,847 in Croatia³¹. Despite their shared history and strong cultural and business ties, their media landscapes and regulatory environments differ, what makes them a relevant pair for comparative analysis.

The “most similar systems design” model³² allows for a comparative investigation into how their media regulation models are aligning with the EMFA. By focusing on countries with similar characteristics, this model minimizes the risk of overlooking critical details that might otherwise be lost in a comparison of more varied systems,

28. See, e.g., SCHNYDER et al. 2023.

29. TRAPPEL 2014, p. 240.

30. SURS 2024.

31. HNB 2024.

32. SEAWRIGHT–GERRING 2008.

ensuring that key nuances are captured and understood. This study employed document and legal analysis, focusing on the existing laws relevant for media concentration, and the proposals of new or revised laws, in the period from May 2024 to October 2024.

In total, two laws were analysed in Croatia (both in force at the time of writing): the 2004 Media Act (*Zakon o medijima*)³³, which has been amended several times, most recently in 2022, and the 2021 Electronic Media Act (*Zakon o elektroničkim medijima*)³⁴. In Slovenia, the 2001 Mass Media Act (*Zakon o medijih*)³⁵ was examined (having also undergone several amendments since the adoption, with the most significant but targeted one in 2016), together with the draft proposal for a new Mass Media Act of September 2024, which is expected to enter parliamentary procedure by the end of 2024. A key limitation of this research is the time frame, which does not allow for the analysis of the final outcomes of the adaptations of Croatian and Slovenian media legislation to the EMFA. However, this also highlights how lengthy these legislative processes can be. Another limitation is the limited availability of draft legal texts, pointing to issues of low transparency and inclusiveness in both states. The results are presented on a case-by-case basis, beginning with an overview of the legislative and institutional framework governing media concentration. This is followed by a critical analysis of the current framework and the ongoing adaptation to the EMFA.

4. Case study: Croatia

Croatia's media landscape faces significant challenges to media pluralism, as highlighted by the Media Pluralism Monitor (MPM 2024)³⁶. The MPM market plurality indicator shows a high-risk score of 66%, reflecting the dominance of a few key players and increasing consolidation in the

Croatian media market. Media outlets, particularly at the regional and local levels, often depend heavily on public funding, making them vulnerable to both political and commercial pressures, which undermine journalistic autonomy and editorial independence. Although new media legislation is in development, the process is unfolding behind closed doors and without the involvement of key stakeholders, raising criticism of the journalists' association HND and union SNH about the lack of a consultative process³⁷. Additionally, the 2024 Rule of Law Report from the European Commission has raised concerns about media pluralism and the independence of Croatia's media regulatory body³⁸.

4.1. Regulatory framework

Croatia's regulatory framework for media concentration and media pluralism is governed by two key legislative acts: the 2021 Electronic Media Act and the 2004 Media Act. According to the Electronic Media Act, media service providers are required to disclose their ownership structures to the Agency for Electronic Media (AEM) within five days of any change (Article 61). This includes information on both direct and indirect owners, with an emphasis on transparency to prevent hidden ownership or undue control over media companies. Each year, providers must also submit certified documents on acquisition of shares and must publish any changes in the Croatian Official Gazette. According to Article 62, media providers must notify the Competition Authority before proceeding with any merger or acquisition that meets the threshold set by competition law. If requested, the AEM provides expert opinions on such concentrations with a focus on their implications for media pluralism. If the AEM does not respond within 30 days, it is considered that there are no objections. The final decision, however, rests with the Competition Authority, which must assess the

33. *Zakon o medijima* (Media Act). Official Gazette of the Republic of Croatia, No. 59/04, 84/11, 81/13, 114/22,

34. *Zakon o elektroničkim medijima* (Electronic Media Act). Official Gazette of the Republic of Croatia No. 153/09, 84/11, 94/13, 136/13, 152/14, 102/15, 32/19, 70/21.

35. *Zakon o medijih* (Mass Media Act). Official Gazette of the Republic of Slovenia, No. 110/06, 36/08, 77/10, 90/10 – CC, 87/11, 47/12, 47/15, 22/16, 39/16, 45/19 – CC, 67/19 – CC, 82/21.

36. BLEYER-SIMON-BROGI-CARLINI et al. 2024.

37. MFRR 2024.

38. EUROPEAN COMMISSION 2024-B.

economic impact and take into account the potential effects on media pluralism as identified with the AEM (Article 62).

The Media Act contains basic provisions on that in Articles 35 and 36, while also establishing a 40% market threshold for newspapers, beyond which concentrations are not allowed. Other thresholds are defined in the Electronic Media Act. As regards cross-ownership, a media provider with a national broadcasting license is restricted from holding more than 25% of shares in another broadcaster at the same or lower level (Article 64). Moreover, media owners who hold state-level concessions are prohibited from owning more than 10% of a daily newspaper that prints over 3,000 copies. These restrictions are designed to prevent the consolidation of ownership and ensure the diversity of media voices. Another significant provision is Article 65, which establishes that any media provider whose annual revenues account for more than 40% of the total media market revenues in Croatia is considered to have a dominant position. Such providers are prohibited from acquiring additional shares in other media outlets, as this would further concentrate the market and reduce diversity. In terms of enforcement, if a provider fails to comply with the provisions regarding ownership transparency or exceeds the allowed concentration limits, the Council for Electronic Media, which can impose severe sanctions, including revoking broadcasting licenses or other authorizations (Article 63(3)). The Council is a body governing the AEM and is composed of seven members, who are appointed by the Croatian Parliament.

In sum, the main regulatory bodies responsible for regulation of media concentrations include the AEM, the Council for Electronic Media, and the Competition Authority. The latter assesses media concentrations in line with the competition law. The AEM monitors compliance with media ownership regulations, transparency requirements (reporting obligations), and cross-ownership restrictions. The Council holds the sanctioning powers.

4.2. Gaps and reform

Despite the rather comprehensive regulatory framework, there are several gaps as regards its applicability, effectiveness, and purpose. While

the law empowers regulatory bodies to block concentrations that threaten media pluralism, it lacks specific criteria or metrics for assessing these threats. This vagueness can lead to subjective decision-making and inconsistent application of the law. Although public access to data on media ownership has improved since Croatia joined the EU, numerous outlets remain unregistered and there is still insufficient regulation and monitoring to ensure full compliance, making the evaluation of media concentration difficult³⁹. Also, both the Electronic Media Act and the Media Act focus primarily on traditional media (broadcasting and print), with no provisions on digital services. While the law provides for revoking licenses as a penalty for violating media pluralism rules, this severe measure may not always be effectively applied. The lack of graduated sanctions – such as fines or temporary suspensions – limits the regulatory bodies' flexibility in addressing violations of varying severity. The law addresses national media concentrations and lacks sufficient provisions for local media markets, which are more vulnerable to monopolistic practices. The lack of detailed criteria for pluralism, the focus on traditional media, and the limitations in enforcement mechanisms indicate areas that require reform to address contemporary challenges posed by digital platforms and changing media consumption patterns.

At the time of writing, the specifics of the modifications to the existing media frameworks remain unclear. In July 2023, the Ministry of Culture circulated what was widely perceived as a draft proposal for a new Media Act. This proposal faced strong criticism from civil society and public watchdogs. The Croatian Association of Journalists (HND) criticized it for potentially undermining media freedom and journalistic independence, while failing to provide adequate safeguards to protect media pluralism (HND 2023). Additional concerns were raised regarding provisions that would grant publishers excessive influence over editorial content and politicize the appointment process for members of the AEM (ib.). In response, Minister of Culture and Media, Nina Obuljen Koržinek, clarified that the document in question was not a formal draft of the Media Act nor had it been sent into any legislative procedure, but was merely a starting point for dis-

39. VILOVIĆ et al. 2023.

cussions within the working group⁴⁰. By September 2024, the Minister announced plans to form a new working group to draft a comprehensive law that may merge the Media Act and the Electronic Media Act, thus expanding the AEM's mandate to cover print media as well⁴¹. As the new draft is awaited, the HND and the Trade Union of Croatian Journalists (SHN) continue to advocate for a more inclusive and transparent reform process⁴².

5. Case study: Slovenia

Slovenia's media landscape, while featuring a broad range of media, faces significant risks to media pluralism (MPM 2024)⁴³. The market plurality indicator, with a 2024 risk value of 72%, is driven by a strong structural tendency towards media concentration. This has worsened by the dominance of digital platforms, which has not been counterbalanced by innovation in the Slovenia's media. Slovenia has consistently struggled with issues of politicisation in media ownership and the allocation of public resources. Editorial independence is another area of concern, having shifted from medium to high risk in 2024. The Slovenian chapter of the 2024 Rule of Law report⁴⁴ pointed to insufficient safeguards against undue political influence over the appointment process in the Slovenia's national regulatory authority responsible for the media, that is the Agency for Communication Networks and Services (AKOS).

5.1. Regulatory framework

The Mass Media Act (*Zakon o medijih*) is a key legislative tool that addresses media pluralism and ownership in Slovenia, among other key areas of media regulation. First adopted in 2001, this very comprehensive law has undergone minor amendments. The provisions on media concentration were slightly updated only in 2006. The Ministry of Culture has the primary role in reviewing media mergers and acquisitions that could affect media pluralism. The Act contains several bans and benchmarks aimed at preventing media con-

centration and protecting media pluralism. There are cross-ownership bans between print, radio, and television media, as well as between media and advertising organisations. Entities holding more than 20% of ownership or voting rights in a general daily newspaper cannot also own or establish a radio or television company, and vice versa (Article 56). Article 59 of the law outlines the restriction that a broadcaster may only operate either radio or television services, not both types, unless it secures a license under Article 105. However, as there are no obstacles to obtaining this license, the ban is ineffective in practice, calling into question the necessity of such a provision in the law. There is also a cross-ownership ban aimed at preventing the vertical integration between telecom operators and broadcasters (Article 62 (1)) which is similarly relativised by a provision allowing telecom operators to get the license for broadcasting channels (Article 62 (2)).

According to Article 58, any entity seeking to acquire more than 20% ownership in a media company must first secure approval from the Ministry, which consults with three key institutions. The AKOS provides data on media reach and population coverage, while the Securities Market Agency (ATVP) offers information on connected persons – individuals or entities related through capital, management, or family ties, who could indirectly influence multiple media companies (Article 57). Additionally, the Broadcasting Council, an expert body appointed by the Slovenian Parliament and supported by AKOS administratively, technically, and financially, issues non-binding opinions on the acquisitions. The Ministry assesses whether the acquisition could lead to a dominant position in the advertising market or breach the legal benchmarks regarding coverage. These benchmarks include restrictions on ownership, such as prohibiting any entity from controlling more than 30% of television coverage or 15% of radio coverage. However, these benchmarks specifically refer to analogue broadcasting, making them largely obsolete, particularly since Slovenia

40. VLADA RH 2023.

41. HINA 2024.

42. MFRR 2024.

43. BLEYER-SIMON-BROGI-CARLINI et al. 2024.

44. EUROPEAN COMMISSION 2024-C.

switched to digital television broadcasting in 2010. Additionally, the law imposes a threshold on print media, stipulating that no entity should control more than 40% of daily newspaper circulation in Slovenia. This provision is long overdue, given the significant and steady decline in print circulation as daily newspapers shift toward alternative revenue sources. One Slovenian daily specialising in finance and business went fully digital in 2024, and more publications may follow this trend.

5.2. Gaps and reform

As demonstrated above, the current legislation on media concentrations is outdated to the point of non-applicability. Also, the small and already highly concentrated Slovenian media market is characterised by complex ownership structure with cross-linked ownership chains, where information on the actual media owners is often incomplete or outdated⁴⁵. The Media Registry, managed by the Ministry of Culture, does contain basic information on media outlets and owners holding at least a 5% share, but due to its incompleteness and irregular updates, it fails to provide an accurate picture of ownership structures. Although the transposition of the EU anti money laundering legislation in 2015 has improved ownership transparency in general, there is still a need for a unified and regularly updated database containing all essential information on media ownership. Another significant concern is the role of the Ministry of Culture as the primary decision-maker in assessing and approving media mergers and acquisitions, a unique arrangement that is highly prone to political influence.

In the ongoing media legislation reform, the Government released two versions of a proposed new Mass Media Act – the first in December 2023 and the second in May 2024. Additionally, a leaked version circulated in September 2024. Since this leaked version has been sent for interdepartmental review, and representatives from the Ministry stated at a public event in October 2024 that it is nearing Government approval⁴⁶, this analysis is based on this unofficial (leaked) version. The previously presented public drafts contained different and less elaborated provisions. The proposal grants the responsibility for the assessment of media

concentrations to the AKOS which is the central regulatory authority overseeing telecommunications, digital services, postal and railway services – and electronic media in Slovenia, designated also as Slovenia’s Digital Services Coordinator (DSC) under the Digital Services Act (DSA). The proposal envisages that entities intending to acquire control over media outlets or online platforms notify AKOS prior to executing such transactions. The “control” is defined broadly, including mergers, acquisition of ownership or voting rights, and the creation of joint ventures (Article 24). The evaluation process is separate from other competition law reviews, ensuring that media concentration is assessed with a specific focus on its impact on pluralism and the public interest (Article 24(6)). If this version is adopted, AKOS will have 100 working days to evaluate media concentrations and decide whether they pose a threat to media pluralism or editorial independence. Concentrations found to significantly reduce media pluralism will be prohibited (Article 27). AKOS will be also empowered to impose remedial measures, including requiring companies to take specific actions to protect the public interest or editorial independence (Article 38). Additionally, AKOS will be able to fine companies that fail to comply with reporting requirements or engage in unauthorized concentrations (Article 32).

A critical shortcoming in these draft provisions is the lack of benchmarks for assessing media pluralism. Although the draft emphasizes the importance of protecting media diversity and independence, it does not provide any measurable criteria – such as ownership limits, content diversity, or audience reach – by which AKOS could assess risks to pluralism on more factual basis. This absence of specific metrics leaves considerable discretion to AKOS, which could lead to inconsistent enforcement. The draft also envisages that AKOS considers the economic viability of media companies involved in concentrations, and whether there are viable alternatives to ensure their sustainability without compromising media pluralism (Article 27(3)). While this provision recognizes the economic realities facing media outlets, it introduces further complexity into the decision-making process without offering clear guidance on how to balance economic concerns with the need to protect

45. MILOSAVLJEVIĆ-KERŠEVAN 2022.

46. STA 2024.

pluralism. The absence of clear criteria is also in a direct conflict with Article 22(1) of the EMFA which mandates that transparent, objective, proportionate and non-discriminatory criteria are set in advance.

Another issue is the concentration of power within the authority, which, while it has strengthened its expertise and professionalism over three decades of operation, has a weak point in governance. As highlighted by the Rule of Law Report⁴⁷, the Government holds excessive influence in the selection of the Agency's decision-maker, i.e., the Director General. In Slovenia, this is a unique structure, where the Director General acts as an individual authority. The AKOS Council, by contrast, only has general supervisory powers and, apart from approving the work programme, financial plan, annual report, and the agency's statute, is not permitted to intervene in the content or procedures related to the adoption of other general acts and individual decisions, recommendations, or related professional tasks of the agency⁴⁸.

6. Discussion and conclusion: collaboration for harmonisation

Media pluralism though inconsistently defined and rarely problematized⁴⁹, remains a fundamental value in democratic societies and is used as a legitimate basis for various regulatory measures. The EMFA defines it as access to a range of media services reflecting diverse opinions (Recital 64). Member states are expected to autonomously assess the impact of media market concentrations on media pluralism, guided by a yet-to-be-developed set of EU standards with no clear timeline. Now their approaches differ significantly. Some apply only competition assessments, while others involve media regulators in the supervision of market transactions. Under the EMFA, NRAs are also expected to contribute to approvals of media concentrations in other Member States via the Board, particularly where cross-border impacts on the internal media market arise (Articles 13 and 22). However, this poses regulatory challenges due to the diversity of political, cultural, and economic

conditions in Member States, the lack of specialised expertise, and also data.

The case studies of Croatia and Slovenia reveal important insights into these broader challenges of adapting national regulatory frameworks to the EMFA requirements concerning media concentration. While both countries share several similarities, including their size, market characteristics, and historical background, the differences in their approaches to media regulation illustrate how the process of harmonisation, which is essential to the success of EMFA, remains at risk due to variations in legal structures, institutional frameworks, and political influences. In both Croatia and Slovenia, concerns over media pluralism are heightened by the dominance of a few key players, leading to high-risk ratings in the Media Pluralism Monitor (MPM 2024)⁵⁰. Slovenia's outdated 2001 Mass Media Act, although amended several times, has failed to keep pace with the evolution of the media landscape, leaving gaps in the regulation of media ownership. Croatia, on the other hand, is attempting to consolidate its media laws into a single legal framework but has faced criticism from civil society and journalists for lacking transparency and failing to safeguard media freedom and pluralism effectively.

On the top of that, as media landscapes become increasingly shaped by global digital platforms increasingly dominating content distribution, national regulators face the dual task of protecting local media diversity while adhering to EU-wide frameworks that address cross-border digital services. The challenges faced by small countries are – and will be – significantly different from those encountered by larger countries. Smaller countries, with their concentrated markets and often less funds available for the media, may face bigger risks internally, while larger countries with more diverse markets might experience challenges in addressing large-scale and cross-border media corporations. The fragmented regulatory landscape in countries with multiple media regulators, such as Belgium, Germany, and Spain, introduces further complexity in coordinating regulatory actions and

47. EUROPEAN COMMISSION 2024-C.

48. *Electronic Communications Code (Zakon o elektronskih komunikacijah)*, Official Gazette of the Republic of Slovenia, No. 130/22 & 18/23 – ZDU-1O, 2022.

49. KARPPINEN 2007; CANTERO GAMITO 2023.

50. BLEYER-SIMON-BROGI-CARLINI et al. 2024.

interpretations of EU-wide rules. Member states, both large and small, may also struggle to maintain independent media oversight and regulatory consistency. As a result, the independence of the Board could be compromised, as it will reflect the independence – or lack thereof – of national regulatory authorities. These risks challenge the EMFA's harmonisation idea and media pluralism impact.

To safeguard a meaningful and effective implementation of the EMFA, which requires transparent and objective criteria, as well as the availability of data, for assessing media concentration across the EU, it would be beneficial for countries – especially smaller or similarly situated ones (like Croatia and Slovenia) – to form collaborative networks mirroring the idea of Article 12 of the EMFA, which envisages a consultation mechanism for the Board allowing it to engage with relevant stakeholders and experts and to conduct consultations. These networks could serve as forums for exchange on best practices and the development of a common framework for media concentration assessment, providing guidance while still allowing for flexibility to accommodate the unique challenges faced by different countries. The participating bodies could work together to define indicators for measuring the impact of media concentrations on media pluralism, produce guidance documents and a voluntary code of conduct for regulators to follow when assessing media concentration.

To implement EMFA effectively and prevent excessive media concentration, it is also essential to establish consistent data collection. Academic institutions could play a significant role here by contributing their research expertise and analytical methods for conducting regular, in-depth and longitudinal analyses of the media market. This could enable the collection of independent data, more

objective evaluations of ownership structures, and the development of new methodological approaches to assess media concentration amidst the digital transformation and evolving media landscape.

7. Conclusion

While the EMFA provides a general foundation and no clear guidance, Member States, particularly smaller ones, where media concentration can significantly impact access to diverse information, should take proactive steps to develop frameworks that respond to their specific needs. A collaborative platform suggested above would not only support the development of a common approach but also ensure that media concentration assessments are performed with clear benchmarks and in line with the goals of the EMFA, thus contributing to more harmonised enforcement across the EU. Institutions such as the Centre for Media Pluralism and Media Freedom (CMPF) which runs the Media Pluralism Monitor and research community from the involved countries could play an important role in these efforts, providing the expertise, analytical tools and data needed to develop objective indicators for media ownership limits, content diversity, and audience reach. These collaborative platforms could also engage in consultations, fostering the exchange of ideas between national and international regulators, experts, and academics, and ensuring that the framework developed is both robust and adaptable, as well as more harmonised as if it is left to each country. This aligns perfectly with Article 12 and Recital 40 of the EMFA, which allow and encourage seeking the guidance from the academia, particularly on issues that extend beyond the audiovisual media sector.

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