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Assessing certain recent developments in the Hungarian media market through the prism of the Media Pluralism Monitor

Elda Brogi, Iva Nenadic, Mario Viola de Azevedo Cunha, Pier Luigi Parcu.

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Requests should be addressed to cmpf@eui.eu

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European University Institute
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Introduction

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the European Union's Member States. The Centre for Media Pluralism and Media Freedom (CMPF) regularly carries out an annual implementation of the MPM in all the EU's Member States and in selected candidate countries¹.

This report has been drawn up by the CMPF at the request of the European Commission² by way of an update to the report on risks to media pluralism in Hungary, published in the framework of the second EU-wide implementation of the MPM (Bognár et al, 2018). In particular, the CMPF was asked to assess whether the establishment of the Central European Press and Media Foundation (Közép-Európai Sajtó és Média Alapítvány, or KESMA) in Autumn 2018 amounts to an element of additional risk for media pluralism in the country and whether this additional risk is quantifiable.

CMPF's assessment builds on the context of the last MPM report for Hungary, which was based on 2017 data. The new assessment is limited to the analysis of the establishment of KESMA and does not take into account other developments in the Hungarian media landscape that occurred in 2018. The assessment is based on verified information published by national and international media and by NGOs as well as on information received from the National Media and Infocommunications Authority of Hungary and on interviews with experts in the field conducted by the CMPF team, namely with Attila Bátorfy, Gábor Halmai, Krisztina Rozgonyi, and Gábor Polyák³.

1 <http://cmpf.eui.eu/media-pluralism-monitor/mpm-2017-2/>. Accessed 4 April 2019.

2 Refer to the announcement made by Mr Giuseppe Abbamonte, Director of the Media Policy Directorate within the European Commission's DG CONNECT at the Committee of Culture and Education (CULT) of the European Parliament. Available at <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20190220-0900-COMMITTEE-CULT>. Accessed 11 April 2019.

3 See Annex IV

II - Facts

Közép-Európai Sajtó és Média Alapítvány, or KESMA, is a non-profit foundation that was established by the Media Fundamentum Nonprofit Private Limited Company and registered with the Kaposvár Regional Court on the 11th of September 2018 based on the respective provisions of Act CLXXXI under the technical registration number 14-01-0003400 with the Articles of Association laid down on the 30th of August 2018.⁴ The company (Media Fundamentum Nonprofit Plc.) establishing the foundation in question was established on the 18th of July 2018, and registered on the 30th of July 2018.⁵

As reported by international media⁶, CEO of the Foundation Gábor Liszkay⁷ is considered politically close to Hungarian Prime Minister Viktor Orbán. The foundation's board is made up of a former and a current Fidesz MP, as well as the CEO of a Fidesz-friendly think-tank (Polyák, 2019).

The Preamble to KESMA's Articles of Association highlights the political and geo-political underpinnings of the Foundation, thus: *“Many times throughout their shared history, Hungary and the countries of the Visegrád region have committed themselves to playing an epoch-making role in Europe. The decisions of the coming years and decades will form the basis upon which to build a community in the Carpathian Basin – and across the wider Visegrád region – which jointly professes Christian and national values, preserves its inherited identity, takes united action in dealing with issues shaping the fate of the nation, and wins recognition for itself while holding true to its values. [...] The Hungarian print and electronic media have an undeniable role and responsibility in strengthening community cohesion and in providing a foundation for thinking related to our common future. [...] We believe that, making a joint commitment to our national and Christian values and equipping ourselves with modern tools, we can give independent answers to the questions of the present and the decades ahead..”*

The specific aim of KESMA is “to promote those activities of the print, radio, TV and online sections of the Hungarian mass media which serve to build values and strengthen Hungarian national consciousness...”⁸

4 Please find the register here (in Hungarian): <https://birosag.hu/civil-szervezetek-nevjegyzeke>

5 Information received by email by the National Media and Infocommunication Authority of Hungary on the 30th April 2019 as a response to CMPF request for information sent on the 10th April 2019. At the official website of KESMA an announcement was published end of November 2018, stating that: “On the basis of various proposals or donations, in November 2018 the Foundation acquired holdings in the abovementioned media companies – the activities of which relate to radio and television media services, online content delivery and publishing of printed media products, and the market share of which is under 20 per cent. Accordingly, this week the Foundation initiated the related procedure for registration with the Court of Registration having jurisdiction”. It is not clear why “the Foundation initiated the related procedure for registration” in November if it was already registered with the Kaposvár Regional Court in September 2018. CMPF tried to clarify this with KESMA itself, sending on the 10th of April 2019, by email, a request for information. No reply was received by the publication of this report.

6 See, for instance, <https://www.reuters.com/article/us-hungary-media/hungarys-orban-exempts-pro-government-media-group-from-scrutiny-idUSKBN1O51DW>. Accessed 4 April 2019.

7 See <https://cepmf.hu/#sectionGoals>. Accessed 4 April 2019.

8 See: <https://cepmf.hu/#sectionGoals>. Accessed 4 April 2019. More: “Related to this, a primary goal is to guarantee the essential values expressed in articles IX and XI of the Fundamental Law of Hungary – especially the promotion of local (county, city, district) Hungarian media, its widest possible distribution in the interests of providing local communities with the fullest possible information, and the continuation of its community-building work. ... to strengthen Hungarian print media and to establish structural cooperation between other media (TV, radio, online), which in the long term will assure preservation of the culture of the traditional Hungarian print media. Another goal is the assurance and creation of conditions – both within and outside the Carpathian Basin – for assisting the media to be able to provide credible conceptual and practical solutions to the questions arising from the increased need for social responsibility in the media (including issues related to its role, and to sustainability and ethics). A further goal is for the Foundation to contribute – through research, education, mentoring and other organisational and community coordination activities - towards

After its establishment, most of the media owners that were considered by public opinion as affiliated or sympathetic to Fidesz transferred the ownership rights of their media holdings to KESMA (November 2018). 13 media companies joined the foundation, without any form of compensation for the owners. Of such pro-government outlets, when this research was carried out, only the TV2 and Rádió 1 network had not been implicated in this merger (Polyák, 2019).

To date, KESMA, in effect, gathers the ownership rights of more than 470 different Hungarian media outlets⁹. Moreover, as recently reported by Reuters, KESMA - through one of its companies (New Wave Media Group) - has also acquired 57% of a European news agency with pro-Visegrad and/or pro-Orban content registered in London (UK).¹⁰ This news agency (V4NA) covered the May 2019 European Parliament elections with a wider focus than just Hungary, including the other Visegrad countries as well (namely Poland, Slovakia, and the Czech Republic). Previously KESMA also acquired parts of the Slovenian and Macedonian media, and apparently showed interested in buying a local TV station in Croatia (Perusko, 2019).

It is important to highlight that while all the assets of the different media outlets were donated to the foundation by their shareholders (Gyóri et al, 2019), the corresponding transactions amount to about 90 million euros, according to estimates.¹¹

The operation was notified to the national competition authority, which had 8 days to decide whether to analyse the case under competition law.

Pending the decision of the competition authority, in December 2018, the Hungarian government declared, by means of a decree, the merger of the media outlets into the Central European Press and Media Foundation a matter of “national strategic interest”¹². According to the provisions under Articles 24/A and 97 of Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition, the Hungarian government is entitled to declare a merger of companies to be in the public interest and to be of strategic importance at national level by way of a decree. Article 24/A¹³ allows an exemption from the competition authority scrutiny when a merger is declared of strategic importance by the government:

Article 24A The Government may, in the public interest, in particular to preserve jobs and to assure the security of supply, declare a concentration of undertakings to be of strategic importance at the national level.¹⁴

Based on the above provisions, the Government of Hungary has issued Government Decree 229/2018. (XII.5) Korm. declaring that the acquisition of the following companies by the Central

shaping Hungarian public discourse and towards raising a next generation of our community with members who will profess national values”.

⁹ See: <https://english.atlatszo.hu/2018/11/30/data-visualization-this-is-how-the-pro-government-media-empire-owning-476-outlets-was-formed>. Accessed 11 April 2019. We contacted also the National Media and Infocommunications Authority of Hungary (NMHH) to obtain information on the market share of the media conglomerate (KESMA). NMHH replied that as the merger has been declared to be in the public interest and to be of strategic importance, the Authority has not been required in any capacity to specifically monitor, evaluate or collect data in connection with the aforementioned acquisitions.

¹⁰ See

https://uk.mobile.reuters.com/article/amp/idUKKCN1RL167?fbclid=IwAR0g0Hxo473rwc44IopDMAi4yObRcuYru-YM1EK4jDI6uCGX7w1IQYvXvcQ&_twitter_impression=true. Accessed 11 April 2019.

¹¹ <https://g7.hu/kozelet/20181203/tobb-mint-30-milliardos-ajandekot-kapott-oligarchaitol-a-ner/>. Accessed 4 April 2019.

¹² <http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/MK18192.pdf>. Accessed 11 April 2019.

¹³ Article 24A was introduced as an amendment in 2013

¹⁴ Available at http://www.gvh.hu/en//data/cms1040138/jogihatter_tpvt_hataly_20190101_a.pdf. Accessed 4 April 2019.

European Press and Media Foundation shall be designated as a matter of national strategic importance: ECHO HUNGÁRIA TV Television, Communication and Service Provider Zrt. (private company limited by shares); Magyar Idők Publishing Kft. (limited liability company); New Wave Media Group Communication and Service Provider Kft.; and OPUS PRESS Zrt.¹⁵ As a result, the Competition Authority declared a lack of competence in investigating the case of Central European Press and Media Foundation¹⁶.

As a consequence of the Decree, the Media Authority has acknowledged a lack of competence in the case. In the response to the CMPF's request for information NMHH wrote: "Based on Section 171 of the Media Act, the opinion of the Media authority (NMHH) shall be obtained in case for the approval of concentration of enterprises under Article 24 of the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices. This process has also not taken place because of the aforementioned Government decree. As the merger has been declared to be in the public interest and to be of strategic importance the Media Authority (NMHH) has not been required in any capacity to specifically monitor, evaluate or collect data in connection with the aforementioned acquisitions".

In the following section, various aspects of the creation of the conglomerate are analysed via the prism of the MPM.

15 Please find the full text of the referred Government Decree in the Hungarian language here: <https://magyarkozlony.hu/dokumentumok/309ea09fd7f2b60d6865ed562f02aa357ac5d4bb/megtekintes> Accessed 11 April 2019.

16 Please find the relevant press release on the website of the Hungarian Competition Authority: http://www.gvh.hu/sajtoszoba/sajtokozlomenyek/2018_as_sajtokozlomenyek/hataskor_hianyaban_lezarult_a_kozep_europai_sajto_.html?query=k%C3%B6z%C3%A9p+eur%C3%B3pai+sajt%C3%B3+%C3%A9s+m%C3%A9dia+alap%C3%ADtv%C3%A1ny Accessed 11 April 2019.

III - Basic protection

The Basic Protection parameters of the MPM assess the regulatory backbone of the media sector. 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.

The MPM2017 assessed the overall risk for the Basic Protection area for Hungary as a medium risk (44%) while the highest risk scoring individual indicators in this area being Journalistic profession, standards and protection (63% risk) and Independence and effectiveness of the Media Authority (50% risk). These indicators are both relevant in the light of the establishment of KESMA.

The Journalistic profession, standards and protection indicator includes journalists' working conditions. MPM2017 highlighted that, overall, the working conditions of journalists in Hungary are quite poor. The report also pointed out that the rapidly changing, sometimes non-transparent and politically influenced ownership of Hungarian media companies has sometimes resulted in journalists losing their jobs while in some cases entire political and economic media departments have been forced to abandon their jobs due to political influence and ownership pressure. This trend has been exacerbated by the establishment of KESMA, which involves hundreds of journalists in the country.¹⁷ As a direct consequence of the creation of the media conglomerate, at least one mass layoff of journalists has been reported, namely relating to two news channels, Hír TV and Echo TV, which recently merged¹⁸, on joining KESMA. The merger led to the firing of all the journalists and other media professionals (approximately 200 employees) working for Hír TV¹⁹.

Another indicator, which comes into play by the dynamics surrounding the new conglomerate, is the Independence and effectiveness of the Media Authority indicator. The Hungarian regulator is the National Media and Telecommunications Authority (NMHH – the “Media Authority”). MPM2017 refers to the fact that the Media Authority was established by Act 82/2010 and that a Media Council was created within the Media Authority. The Council is competent to monitor and enforce the package of media laws adopted by Parliament in November and December 2010. MPM2017 pointed out that Act 82/2010 does not provide sufficient formal safeguards ensuring the political independence of all media authority appointees, leading to a medium risk score (50%) (Bognár et al, 2018).

As has been widely reported, the Media Authority did not have any say whatsoever with regard to the cross-media KESMA merger though Section 24 of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices stipulates that the national competition authority shall obtain the opinion of the Media Council in certain cases. Namely, in cases when concentration concerns enterprises which have editorial responsibility and the primary objective of which is to distribute media content to the general public via an electronic communications network or a printed press product.

Article 171. § (2) of the Media Act is also relevant in this respect which stipulates that a media merger may only be approved if the sources of independent opinion after the merger occurs, ensure diverse

17 Based on an analysis, dated December 2018, not necessarily taking into account all the acquisitions, the new conglomerate has already more than 2800 employees. <https://444.hu/2018/12/05/orban-nemzetstrategiai-jelentoseguve-minositette-a-kormanyzati-mediaalapitvanyt-nem-lesz-versenyjogi-vizsgalat>. Accessed 11 April 2019.

18 <https://www.echo.tv.hu/hirek/2019/03/31/kesma-kozlemeny>. Accessed 11 April 2019.

19 <https://24.hu/belfold/2019/04/01/hir-tv-echo-tv/>. Accessed 11 April 2019.

information in the relevant media content services market. This section of the Media Act is the implementation of the principles enshrined in Article IX (2) of the Fundamental Law of Hungary (the Hungarian Constitution) which stipulates that: "*Hungary shall recognise and protect the freedom and diversity of the press, and shall ensure the conditions for the free dissemination of information necessary for the formation of democratic public opinion*".²⁰

The exclusion of the Competition Authority from scrutiny of the creation of KESMA led to the exclusion of scrutiny by the Media Council. The above-mentioned government decree, therefore, excluded both these authorities from any scrutiny on the KESMA case, thereby limiting *de facto* their independence.

The "national strategic interest" justification used by the Hungarian Government has now been used by the Hungarian Government 23 times since 2014²¹. A comparative analysis on the use of clauses referring to the "public interest" by other EU Member States, shows that the public interest clause has not been used to *justify* a media merger, but, rather, to obtain the opposite result, i.e. to prevent the creation of too large a media concentration.

The variables in the MPM indicators on the independence of the media authority that are affected by the dynamics leading to the approval of KESMA are those that assess whether i) the media authority acts independently from political and/or economic influences and ii) whether the Government arbitrarily overrules decisions by the media authority. This indicator registered a medium risk (50%) in MPM2017 and the total exclusion of scrutiny by the Hungarian media authority of an important operation such as KESMA confirms and reinforces the assessment. Consequently, the total bypassing of the Media Authority prior to the approval of KESMA represents an additional element of risk.

IV - Market Plurality

Under the Market Plurality area, the MPM examines both the transparency or otherwise of media ownership, as well as the existence and effectiveness of regulatory safeguards to prevent horizontal and cross-media concentration of ownership and the role of competition enforcement and state aid control in protecting media pluralism. Furthermore, it evaluates the viability of the media market and to what extent commercial forces, including media owners and advertisers, influence editorial decision-making.

The MPM2007 report on Hungary scored this area in the upper range of medium risk (63%) with all but one indicator (cross-media concentration of ownership and competition enforcement which scored medium risk) scoring a high risk. Media ownership concentration (horizontal) scored 70% (high risk) (Bognár et al, 2018). Although there are provisions in the 2010 Media Act limiting both horizontal and vertical concentration, they have not prevented market concentration in practice (Bognár et al, 2018). This is both a result of structural deficiencies in the law and the lack of an independent regulator to ensure fair market competition in line with principles and obligations geared at safeguarding market pluralism. MPM2017 had already highlighted that "*Due to the current political structure and culture, even the most elaborated regulation of ownership could probably not prevent information monopoly, given that government friendly media content is produced by many*

20 See also the petition submitted by certain Members of the Hungarian Parliament to the Hungarian Constitutional Court. <http://public.mkab.hu/dev/dontesek.nsf/0/12BDA2B452503D2DC12583A5006153A1?OpenDocument>. Accessed 11 April 2019.

21 A list comprising all 23 decisions with a summary and an unofficial English version can be found in Annex 3 to this report. See also the response of the Hungarian Government to the alert with regard to Hungary submitted to the Platform for the Promotion of the Protection of Journalism and Safety of Journalists concerning the New Pro-Government Media Conglomerate Available at <https://rm.coe.int/hungary-reply-en-new-pro-government-conglomerate-29january2019/16809205d1>. Accessed 11 April 2019.

media outlets owned by various business entities. But they produce the same content in line with the messages of the government" (Bognár et al, 2018). Based on figures published by academic researchers and NGOs in Hungary we can identify a rise in the concentration rate for the radio, TV and press markets as a consequence of the KESMA conglomerate, which points to an increase in the risk level for this indicator.

Cross-media concentration of ownership and competition enforcement, as already mentioned, scored a medium risk (35%) in 2017 (Bognár et al, 2018). However, the creation of the new conglomerate - which comprises media outlets from different media sectors (print, TV and radio) - this risk has certainly risen, with some civil society organizations reporting that the Foundation is now the market leader in print media and radio and while also possessing the largest cross sector market portfolio, being also the second player in TV. The International Press Institute (IPI) points out that: "*KESMA will be the market leader in print media and radio, and will even own the largest online portfolio. It will only play second fiddle in the TV market, where Bertelsmann-owned RTL Klub still leads, though with its six TV channels and possibly TV2 still to come, it clearly dominates among domestic broadcasters. And, it should be noted, besides KESMA, the Hungarian government also holds firm sway over the country's public service broadcasters. With the exception of RTL Klub and some smaller print magazines and radio stations, independent media in Hungary has been pushed to the internet. Several small websites struggle for survival, while the country's largest news site, Index.hu was recently taken over by owners with shady pro-government backgrounds.*"²²

CMPF acknowledges that there is no official data available on market shares for the country²³. Nonetheless, in the rationale of the MPM methodology, this absence of data *per se* indicates a serious risk, as it amounts to a lack of transparency.

All these factors have led to an increase in the market share of the Top4 owners across different media markets, with an impact on the risk level for this indicator, which, coupled with the increase in risk level for the horizontal concentration indicator, would increase the Market Plurality Area risk level from medium risk identified in MPM2017 to high risk following the creation of KESMA.

V - Political Independence

The media system in Hungary is characterised by a high level of political parallelism (Bognár et al, 2018) which has been highlighted in both MPM2016 and MPM2017 reports (Brouillette et al, 2017; Bognár et al, 2018). The Political independence area is the highest scoring risk area for Hungary and the only one out of four areas examined resulting in a high risk. The three highest scoring indicators under this area are all related to lack of political independence: namely, State regulation of resources and support to the media sector (an acute high-risk score of 97%), Editorial autonomy (88%), and Media and democratic electoral process (79%).

The State regulation of resources indicator evaluates the legal provisions and the situation in practice with regard to the distribution of state managed resources channelled to the media sector. These resources, including spectrum allocation, state subsidies and state advertising, if not managed in accordance with fair and transparent criteria, may be used as a mean of exercising political control by favouring specific media outlets in a biased manner. MPM2017 for Hungary ranked this indicator as acute high risk (97%) due to the complete absence of fair rules on transparency in the distribution of state advertising and state subsidies to the media (Bognár et al, 2018). Simultaneously, the

²² <https://ipi.media/one-hungarian-media-monster-to-rule-them-all/>. Accessed 4 April 2019.

²³ An analysis of the media market can be found here: <https://mertek.atlatszo.hu/fidesz-friendly-media-dominate-everywhere/>

Hungarian government features among the leading advertisers in the country's media market (Bognár et al, 2018; Viniczai, 2018²⁴).

Mertek Media Monitor (MMM) (2018) shows²⁵ that, in Hungary, media owners who are not aligned with the government derive their income from the market while in the case of government-friendly media companies a large proportion of the revenue comes from state advertising. Furthermore, the study highlights that the number of media brands for which the share of state advertising exceeded 50 percent of all advertising revenue increased more than fivefold in just one year (from 5 in 2016 to 26 in 2017), and that there are some, often marginal, media outlets relying exclusively on state advertising for survival.

Another recent report, published by a network of advertising agencies in Central and Eastern Europe, shows, in the country, an increase of 75% of state advertising spending during the first four months of 2018 (parliamentary elections were held on the 8th of April) compared to the same period of the previous year. This was particularly visible in the print media market for which state advertising grew by 18%, with a significant portion of this spending going to local and regional pro-government media.²⁶

These factors indicate that the financial stability and sustainability of a significant amount of media outlets in Hungary depends on revenues earned from state advertising, which may be conditioned by political loyalty, as there are no rules to guarantee transparent distribution of these funds based on a set of clear and fair criteria. Consequently, state advertising remains a matter of high concern with a significantly negative impact on media freedom and pluralism in Hungary²⁷. The creation of KESMA would not reflect on the risk level, as it is already the highest possible for the indicator on State regulation of resources and support to the media sector. However, it deepens the problem by consolidating the political influence within this merger that includes some of the biggest beneficiaries of state advertising (MMM, 2018). A large number of media outlets does not guarantee pluralism if those outlets are all susceptible to government influence. However, bringing them all under the same roof may be reasonably interpreted as an attempt to facilitate the consolidation of political control.

The other two relevant indicators are those relating to Editorial autonomy (88% risk level) and Media and democratic electoral process (79% risk level). While self-regulatory measures exist which stipulate that editorial decision making should be independent from political interference in the news media (thereby slightly lowering the risk level in MPM2017), self-regulation is not, in fact, effective in practice given the systematic political influence over editorial content and decision-making (Bognár et al, 2018). These findings were confirmed by the group of experts consulted in addition to the MPM2017 country research team. The creation of KESMA is likely to exacerbate already very high risk levels in this area.

In addition, the Media and democratic electoral process indicator scored a high risk of 79% in MPM2017. On paper, the Hungarian Media Act aims to ensure fair, balanced and impartial representation of political viewpoints in news and other similar programmes broadcast by public service media, thereby lowering the risk levels. However, MPM2017 (also based on airtime data supplied by the media regulator), pointed out that Fidesz MPs and government officials are granted

24 https://annualreport.wecan.net/pdf/CANnual_Report_2018.pdf. Accessed 11 April 2019.

25 <https://mertek.eu/wp-content/uploads/2018/08/MertekFuzetek15.pdf>. Accessed 11 April 2019.

26 https://annualreport.wecan.net/pdf/CANnual_Report_2018.pdf. Accessed 11 April 2019.

27 <https://mertek.eu/en/2019/01/29/state-advertising-spending-in-hungary-an-unlawful-form-of-state-aid/> (accessed 30 July 2019)

a majority of airtime on TV channels compared to other parties/party officials (Bognár et al, 2018)²⁸. Consequently, this indicator continues to register high risk.

Finally, MPM2017 indicated that public service media (PSM) is at high risk from political/government interference given that: *“Each of Hungary’s public service media outlets—three national TV, three radio stations and one national news service—are now supervised by a single body, the Media Services and Support Trust Fund (Médiaszolgáltatás-támogató és Vagyonkezelő Alap, MTVA), managed by the country’s media regulator, the Media Council, a body composed of all five members who were appointed and elected by the governing majority”* (Bognár et al, 2018). In addition, two PSM television channels and two radios are among group of outlets which are the biggest beneficiaries of state advertising, despite already being financed by public money (MMM, 2018).

A lack of political independence of the public service media and a consolidation of political influence in the newly founded media conglomerate will exacerbate the risks to media pluralism detected within this area.

VI Social Inclusiveness

The Social Inclusiveness indicators refer to access to the media by various groups in society. The indicators assess regulatory and policy safeguards for community media, and for access to media by minorities, local and regional communities, women, and people with disabilities. In addition to access to the media by specific groups, media literacy is an important indicator of the state of media pluralism. The Social Inclusiveness area therefore also examines the country’s media literacy environment, as well as the digital skills of the overall population.

The indicator that seems to be directly affected by the establishment of KESMA is Access to media for local/regional communities and for community media. Based on interviews conducted with Hungarian media experts, it is safe to say that the regional and local market is now largely in the hands of KESMA²⁹ though it is difficult for the CMPF to assess this specific indicator with full precision given that studies and official data on the local media market are not available.

VII Conclusions

MPM2017 had clearly indicated that risks to media pluralism in Hungary are, overall, high. The establishment of KESMA via the merger of more than 470 Hungarian different media outlets will exacerbate the overall risk.

First, in the immediate aftermath of the creation of KESMA, at least one mass-layoff of journalists, leading to the laying off of approximately 200 employees (journalists and media professionals) in one day, was reported.

Second, while MPM2017 had already raised concerns with regard to the independence of the Media Authority indicator, which scored a medium risk (50%), the fact that the Media Authority did not have any say whatsoever with regard to the cross media merger in the critically significant KESMA

28 See also the OSCE/ODIHR Hungary-Parliamentary elections, 8 April 2018, <https://www.osce.org/odihr/elections/hungary/385959?download=true> Accessed 30 July 2019.

29 Consulted expert Attila Bátorfy said that all the regional newspapers and their online versions (18) are published by KESMA. On the local level there are 3155 municipalities in Hungary, almost all of them led by Fidesz representatives and local news (tv, radio, newspapers, weeklies, newsletters) are published by the municipalities themselves.

case further raises concerns with regard to this indicator. Reducing the role and competences established by law for the authorities by *de facto* limiting or curtailing their independence via governmental decree represents an additional risk.

Third, despite the already consolidated horizontal and cross-media concentration of ownership in the country, KESMA, which comprises media outlets from different media sectors (print, TV and radio), further increases the risk level in this area.

Fourth, with regard to the State regulation of resources and support to media sector indicator, KESMA deepens an already serious problem by consolidating political influence within the merged entity that includes some of the biggest beneficiaries of state advertising. The problem is also exacerbated in relation to the Editorial autonomy and Media and democratic electoral process indicators.

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Bognár, É., Bátorfy, A.; Dragomir, M. (2018). Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2017 in the European Union, FYROM, Serbia & Turkey. Country Report: Hungary. Available at http://cadmus.eui.eu/bitstream/handle/1814/61143/2018_Hungary_EN.pdf?sequence=1&isAllowed=y Accessed 11 April 2019.

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Annexes

Annex I: Art. 24. A. of the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices

The legal base for the exemption of KESMA from the competition authority scrutiny is Art. 24. A. of the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices

Article 24/A The Government may, in the public interest, in particular to **preserve jobs and to assure the security of supply, declare a concentration of undertakings to be of strategic importance at the national level**. Such concentrations shall not be subject to an obligation of notification to the Hungarian Competition Authority pursuant to Article 24.

http://www.gvh.hu/en//data/cms1040138/jogihatter_tpvt_hataly_20190101_a.pdf

Annex II: Government Decree 229/2018. (XII. 5.)

A Kormány 229/2018. (XII. 5.) Korm. rendelete

a Közép-Európai Sajtó és Média Alapítvány által az ECHO HUNGÁRIA TV Televíziós, Kommunikációs és Szolgáltató zártkörű Részvénytársaság, a Magyar Idők Kiadó Korlátolt Felelősségű Társaság, a New Wave Media Group Kommunikációs és Szolgáltató Korlátolt Felelősségű Társaság, valamint az OPUS PRESS Zártkörűen Működő Részvénytársaság megszerzésének nemzetstratégiai jelentőségűvé minősítéséről

A Kormány a tisztességtelen piaci magatartás és a versenykorlátozás tilalmáról szóló 1996. évi LVII. törvény 97. §-ában kapott felhatalmazás alapján, az Alaptörvény 15. cikk (1) bekezdésében meghatározott feladatkörében eljárva a következőket rendeli el:

1. § A Kormány a tisztességtelen piaci magatartás és a versenykorlátozás tilalmáról szóló 1996. évi LVII. törvény 24/A. §-a alapján az ECHO HUNGÁRIA TV Televíziós, Kommunikációs és Szolgáltató zártkörű Részvénytársaság (székhely: 1149 Budapest, Angol utca 65–69., cégjegyzékszám: 01-10-045204), a Magyar Idők Kiadó Korlátolt Felelősségű Társaság (székhely: 1097 Budapest, Könyves Kálmán körút 12–14., cégjegyzékszám: 01-09-168017), a New Wave Media Group Kommunikációs és Szolgáltató Korlátolt Felelősségű Társaság (székhely: 1072 Budapest, Klauzál utca 30., cégjegyzékszám: 01-09-189828), valamint az OPUS PRESS Zártkörűen Működő Részvénytársaság (székhely: 1062 Budapest, Andrásy út 59., cégjegyzékszám: 01-10-048787) feletti irányítás Közép-Európai Sajtó és Média Alapítvány (székhely: 8623 Balatonföldvár, Bethlen Gábor utca 9., nyilvántartási szám: 14-01-0003400) általi megszerzésével megvalósuló összefonódást közérdekből nemzetstratégiai jelentőségű összefonódásnak minősíti.

2. § Ez a rendelet a kihirdetését követő napon lép hatályba.

Annex III: Cases in which Article 24A of the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices was used

The amendment which permits the Government to adopt decrees exempting the competition authority from scrutiny of certain operations was introduced in 2013. To date, the majority of these decrees declaring undertakings to be of strategic importance were related to public utilities and /or to public ownership of scarce resources. The following decrees have been adopted since 2013:

<p>7/2019. (I. 28.) Korm. rendelet</p>	<p>az ÓAM ÓZDI ACÉLMŰVEK Korlátolt Felelősségű Társaság üzletrészek Magyar Állam javára történő megszerzésére irányuló ügylet nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification of the transaction for the acquisition of the shares of the Limited Liability Company of OAM OZD STEEL COMPANY for the benefit of the Hungarian State as a national strategy</p>
<p>229/2018. (XII. 5.) Korm. rendelet</p>	<p>a Közép-Európai Sajtó és Média Alapítvány által az ECHO HUNGÁRIA TV Televíziós, Kommunikációs és Szolgáltató zártkörű Részvénytársaság, a Magyar Idők Kiadó Korlátolt Felelősségű Társaság, a New Wave Media Group Kommunikációs és Szolgáltató Korlátolt Felelősségű Társaság, valamint az OPUS PRESS Zártkörűen Működő Részvénytársaság megszerzésének nemzetstratégiai jelentőségűvé minősítéséről</p> <p>Translation to English:</p> <p>by the Central European Press and Media Foundation by ECHO HUNGARIA TV Television, Communication and Service Private Limited Liability Company, Limited Liability Company of the Hungarian Idők Publisher, New Wave Media Group Communication and Service Limited Liability Company and OPUS PRESS Private Limited Liability Company its importance</p>
<p>323/2017. (XI. 8.) Korm. rendelet</p>	<p>az ÉGÁZ-DÉGÁZ Földgázelosztó Zártkörűen Működő Részvénytársaság 100%-os részvénycsomagjának az NKM Nemzeti Közművek Zártkörűen Működő Részvénytársaság általi megvásárlása nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>Acquisition of the 100% shareholding of ÉGÁZ-DÉGÁZ Natural Gas Distributor Private Limited Company by NKM National Public Utilities Private Limited Company</p>

<p>146/2017. (VI. 12.) Korm. rendelet</p>	<p>az MFB Magyar Fejlesztési Bank Zártkörűen Működő Részvénytársaságnak a Fővárosi Gázművek Zártkörűen Működő Részvénytársaságban fennálló társasági részesedése ENKSZ Első Nemzeti Közműszolgáltató Zártkörűen Működő Részvénytársaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the shareholding of MFB Hungarian Development Bank Private Limited Company in the Private Limited Liability Company of Metropolitan Gas Plants Obtaining the acquisition of National Strategic significance by the First National Utility Company of the Hungarian Public Utilities Company</p>
<p>455/2016. (XII. 19.) Korm. rendelet</p>	<p>az MVM Magyar Villamos Művek Zártkörűen Működő Részvénytársaságnak az Első Nemzeti Közműszolgáltató Zártkörűen Működő Részvénytársaságban történő részesedésszerzésének nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification of MVM Hungarian Electricity Works Private Limited Company as acquisition of national strategic importance by the First National Utility Company in a Private Limited Company \ t</p>
<p>434/2016. (XII. 15.) Korm. rendelet</p>	<p>az EDF International S.A.S.-nek az EDF DÉMÁSZ Zártkörűen Működő Részvénytársaságban fennálló részesedése ENKSZ Első Nemzeti Közműszolgáltató Zártkörűen Működő Részvénytársaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>Ownership of a Private Limited Liability Company in the form of the acquisition of National Strategic significance by the First National Utility Provider of the Hungarian Central Securities Depository (SEPA)</p>
<p>326/2016. (X. 27.) Korm. rendelet</p>	<p>az Alpiq Csepel Korlátolt felelősségű Társaság 100%-os üzletrészesének MVM Magyar Villamos Művek Zártkörűen Működő Részvénytársaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p>

	<p>Acquiring 100% of Alpiq Csepel Limited Liability Company by MVM Magyar Villamos Művek Zrt.</p>
<p>14/2016. (II. 9.) Korm. rendelet</p>	<p>a Foncière Polygone Hungária Korlátolt Felelősségű Társaság 99,9934169% társasági részesedésének állam javára történő megszerzésére irányuló ügylet nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>99.9934169% of Foncière Polygone Hungária Limited Liability Company qualifying as a national strategic transaction for the acquisition of the State's interest</p>
<p>268/2015. (IX. 14.) Korm. rendelet</p>	<p>a GDF International S.A.S.-nek a GDF SUEZ Energia Magyarország Zártkörűen Működő Részvénytársaságban fennálló részesedése Fővárosi Gázművek Zártkörűen Működő Részvénytársaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>GDF International S.A.S.'s shareholding in GDF SUEZ Energy Hungary Limited Liability Company Acquisition by Metropolitan Municipal Private Limited Liability Company</p>
<p>151/2015. (VI. 18.) Korm. rendelet</p>	<p>a Tabán Trafik Dohánytermék-forgalmazó, Kereskedelmi és Szolgáltató zártkörűen működő részvénytársaság és a BAT Pécsi Dohánygyár Korlátolt Felelősségű Társaság összefonódásának közérdekből történő nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification of the merger between Tabán Trafik Tobacco Product Distributor, Private Limited Company and Commercial and Service Company of BAT and the Pécs Tobacco Factory Limited Liability Company as a national strategic interest</p>

<p>56/2015. (III. 17.) Korm. rendelet</p>	<p>a Budapest Bank Zrt. tevékenysége feletti befolyás megszerzésével megvalósuló társasági összefonódás közérdekből történő nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification as a national strategic interest of a company merger by acquiring influence over the activities of Budapest Bank Zrt.</p>
<p>338/2014. (XII. 18.) Korm. rendelet</p>	<p>az MVM Magyar Villamos Művek Zártkörűen Működő Részvénytársaságnak a Fővárosi Gázművek Zártkörűen Működő Részvénytársaságban fennálló részesedése MFB Magyar Fejlesztési Bank Zártkörűen Működő Részvénytársaság és MFB Invest Befektetési és Vagyonkezelő Zártkörűen Működő Részvénytársaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>MVM Hungarian Electricity Works Private Limited Company's holding in the Private Limited Liability Company of Metropolitan Gas Works by the acquisition of MFB Hungarian Development Bank Private Limited Company and MFB Invest Investment and Asset Management Company by the Public Limited Company</p>
<p>330/2014. (XII. 16.) Korm. rendelet</p>	<p>az MFB Magyar Fejlesztési Bank Zártkörűen Működő Részvénytársaságnak a Fővárosi Gázművek Zártkörűen Működő Részvénytársaságban történő részesedésszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the acquisition of shareholdings in the Private Limited Liability Company of Budapest Metropolitan Gas Works by MFB Hungarian Development Bank as a National Strategy</p>
<p>282/2014. (XI. 14.) Korm. rendelet</p>	<p>a WELT 2000 Szolgáltató és Kereskedelmi Korlátolt Felelősségű Társaság társasági üzletrészenek a Magyar Állam javára történő megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>Acquisition of WELT 2000 Service Provider's and Company's Limited Liability Company's shareholding in favor of the Hungarian State as a national strategy</p>

<p>254/2014. (X. 2.) Korm. rendelet</p>	<p>a Magyar Gáz Tranzit Zártkörűen Működő Részvénytársaság társasági részesedéseinek állam javára történő megszerzésére irányuló ügylet nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification of the Hungarian Gáz Tranzit Private Limited Company's acquisition of shares for the benefit of the state as a national strategy</p>
<p>235/2014. (IX. 18.) Korm. rendelet</p>	<p>a Magyar Államnak a Bombardier MÁV Hungary Kft.-ben történő részesedés szerzése társasági összefonódásának közérdekből történő nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification by the Hungarian State of the acquisition of shares in Bombardier MÁV Hungary Kft.</p>
<p>218/2014. (VIII. 28.) Korm. rendelet</p>	<p>a Fővárosi Gázművek Zártkörűen Működő Részvénytársaság Fővárosi Önkormányzat tulajdonában lévő társasági részesedésének állam javára történő megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>Acquisition of the State Ownership of the Municipal Government of Budapest Municipality by the Municipal Government of Budapest Municipality for the purposes of classification as a national strategy</p>
<p>190/2014. (VII. 30.) Korm. rendelet</p>	<p>a Magyar Államnak az MKB Bank Zrt.-ben történő részesedés szerzése társasági összefonódásának közérdekből történő nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>on the classification by the Hungarian State of the acquisition of shares in MKB Bank Zrt.</p>
<p>142/2014. (IV. 30.) Korm. rendelet</p>	<p>a Nemzedékek Tudása Tankönyvkiadó Zártkörűen Működő Részvénytársaság és az Apáczai Kiadó és Könyvterjesztő Korlátolt Felelősségű Társaság társasági üzletrészenek a Magyar Állam javára történő megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p>

	<p>Acquisition of the business shares of the Limited Liability Company of the Generations Knowledge Textbook Publisher and of the Limited Liability Company of Apáczai Publishing House and Distributor for the benefit of the Hungarian State</p>
<p>106/2014. (III. 26.) Korm. rendelet</p>	<p>az „Antenna Hungária” Magyar Műsorszóró és Rádióhírközlési Zártkörűen Működő Részvénytársaság 100%-os társasági részesedése állami tulajdonban álló társaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>acquiring 100% of the shares of the state-owned company Antenna Hungária Hungarian Broadcasting and Radiocommunication Limited Liability Company as a national strategy</p>
<p>51/2014. (II. 28.) Korm. rendelet</p>	<p>a WELT 2000 Szolgáltató és Kereskedelmi Korlátolt Felelősségű Társaság társasági üzletrészenek a Magyar Állam javára történő megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>Acquisition of WELT 2000 Service Provider's and Company's Limited Liability Company's shareholding in favor of the Hungarian State as a national strategy</p>
<p>48/2014. (II. 26.) Korm. rendelet</p>	<p>a Magyar Takarékszövetkezeti Bank Zártkörűen Működő Részvénytársaság és a Magyar Takarékszövetkezeti Bank Vagyonkezelő Zártkörűen Működő Részvénytársaság összefonódása közérdekből nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>Concerning the Concentration of the Private Limited Liability Company of the Magyar Takarékszövetkezeti Bank and the Private Limited Liability Company of the Hungarian Savings and Investment Firm from the Public Interest as a National Strategy</p>

<p>14/2014. (I. 29.) Korm. rendelet</p>	<p>a Fővárosi Gázművek Zártkörűen Működő Részvénytársaság 49,83%-os társasági részesedése MVM Magyar Villamos Művek Zártkörűen Működő Részvénytársaság általi megszerzése nemzetstratégiai jelentőségűnek minősítéséről</p> <p>Translation to English:</p> <p>49.83% shareholding in Metropolitan Gas Works Private Limited Company acquisition of MVM Magyar Villamos Művek Zrt.</p>
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Annex IV: Consulted experts

Name	Affiliation	Date of interview	Conducted by
Krisztina Rozgonyi	Institut für Publizistik- und Kommunikationswissenschaft der Universität Wien	7 March 2019	email and Voip call
Gábor Halmai	European University Institute (EUI)	5 March 2019	meeting in person
Gábor György Polyák	University of Pécs	22 February 2019	email and Voip call
Attila Bátorfy	Átlátszó and CEU/CMDS	21 February 2019	email and Voip call

HYPERLINK
<http://cmpf.eui.eu>
cmpf@eui.eu



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