



AFRICAN MEDIA BAROMETER

A home-grown analysis of the
media landscape in Africa

MADAGASCAR 2019

ENGLISH VERSION

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The African Media Barometer (AMB) is a perception index. The findings, interpretations and conclusions reported are those of panellists drawn from civil society and media organisations for the purposes of conducting the AMB, and do not necessarily reflect the views and opinions of *fesmedia* Africa, the Friedrich-Ebert-Stiftung (FES) or the Media Institute of Southern Africa (MISA).



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The African Media Barometer

The African Media Barometer (AMB) is an in-depth and comprehensive description and measurement system for national media environments on the African continent. Unlike other press surveys or media indices the AMB is a self-assessment exercise based on home-grown criteria derived from African Protocols and Declarations such as the Declaration of Principles on Freedom of Expression in Africa (2002) by the African Commission for Human and Peoples' Rights. The instrument was jointly developed by *fesmedia* Africa, the media project of the Friedrich-Ebert-Stiftung (FES) in Africa, and the Media Institute of Southern Africa (MISA) in 2004.

The AMB is an analytical exercise to measure the media situation in a given country which at the same time serves as a practical lobbying tool for media reform. Its results are presented to the public of the respective country to push for an improvement of the media situation using the AU-Declaration and other African standards as benchmarks. The recommendations of the AMB reports are then integrated into the work of the 20 country offices of the FES in sub-Saharan Africa and into the advocacy efforts of other local media organisations such as MISA.

Methodology and Scoring System

Every three to four years a panel of 10-12 experts, consisting of at least five media practitioners and five representatives from civil society, meets to assess the media situation in their own country. For 1½ days they discuss the national media environment according to 39 predetermined indicators. The discussion and scoring is moderated by an independent consultant who also edits the AMB report.

After the discussion of one indicator, panel members allocate their individual scores to that respective indicator in an anonymous vote according to the following scale:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator

In 2009, 2013 and 2019 some indicators were replaced to align with changes in the media landscape. Consequently, in some instances, the comparison of indicators of previous reports is not applicable (n/a), as the indicator is new or has been amended considerably.

The sum of all individual indicator scores is divided by the number of panel members to determine the average score for each indicator. These average indicator scores are added up to form average sector scores.

Outcome

The final, qualitative report summarises the general content of the discussion and provides the average score for each indicator. Panellists are not quoted by name in the report, in order to protect them from possible repercussions. The reports can be used as a tool for possible political discussion on media reform.

In countries where English is not the official language, the report is published in a bilingual edition.

In facilitating the AMB, the FES and MISA only serve as a convener of the panel and as guarantor of the methodology. The content of the discussion and the report is owned by the panel of local experts and does not represent or reflect the view of FES or MISA.

By the end of 2019 the AMB had been successfully completed 121 times in 32 african countries, in some of them for the sixth time already.

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See above 32 AMB Countries (2005-2019)

List of acronyms

ANRCM:	The National Authority for the Regulation of Media Communication
ANTA:	The Taratra National Information Agency
ARTEC:	The Authority for the Regulation of Communication Technology
BIANCO:	The Independent Anti-Corruption Bureau
CENI:	The National Independent Electoral Commission
CNaPS:	The National Social Security Fund
CSI:	The Committee for the Safeguarding of Integrity
DBTNT:	The Directorate for Switching to Digital Terrestrial Television
DTT:	Digital Terrestrial Television
ECD:	Short-term employees
EPIC:	Public industrial and commercial establishment
FDJ:	The Training of Young Journalists
FES:	The Friedrich-Ebert-Stiftung
GEPIMM:	The Group of Publishers of News Media, Multimedia in Madagascar
HAA:	The High Authority for Audiovisual Media
HCC:	The High Constitutional Court
IEM:	The Madagascar Emergence Initiative
JRI:	Image Reporting Journalists
MBS:	The Malagasy Broadcasting System
MCC:	The Ministry of Communication and Culture
MLE:	The Movement for the Freedom of Expression
OJM:	The Order of Journalists of Madagascar
ONE:	The National Environment Office
ONI:	The National Integrity Observatory
ORTM:	The Madagascar Radio and Television Office
CSO:	Civil Society Organisations
PGDI:	The Governance and Institutional Development Project
PPP:	Public-Private Partnership
RNDC:	The National Consumer Defense Network
RNM:	The Radio Nasionaly Malagasy (the public radio broadcasting)
SAMIFIN:	The Financial Intelligence Office
SEFAFI:	The Public Life Observatory
SME:	Minimum Hiring Wage
ICT:	Information and Communication Technologies
TVM:	The Televiziona Malagasy (the public television channel)
UPF:	The Francophone Press Union
ITU:	The International Telecommunication Union
US\$:	US Dollar

African Media Barometer

Madagascar 2019

Summary

Freedom of expression and freedom of the media are guaranteed in Madagascar through several pieces of legislation. The Malagasy Constitution, voted in November 2010, guarantees freedom of expression and the right to information. The law establishing the Media Communication Code, enforced since 14 July 2016, promotes freedom of expression and guarantees freedom of the press, however certain provisions within this law are repressive and were denounced by the media and civil society during the consultation process.

Madagascar held general elections in 2018-2019. At the time of this AMB, the new administration and the new majority in parliament were undertaking a review of the media legislation.

While these laws are being reviewed, citizens and journalists exercise their rights with apprehension and caution, and a decline in freedom of the press and expression has been noticed. Those who dare to openly criticise the government may be subject to retaliation in their private or professional lives in the form of threats of dismissal, relocation or legal proceedings. Journalists, whether from the opposition, private or public media, are careful about what they say, publish or express in the public arena, namely through their respective media houses. Arrests and lawsuits against journalists have been carried out in recent years.

The Law on Cybercrime and the Media Communication Code have been amended in response to the demands of media practitioners. However, these amendments bring additional limitations, as fines have increased and articles restricting image rights have been added. A sword of Damocles is hanging over the heads of social media users. Publishing satirical or parodic images can result in exorbitant fines. Even if the laws are not thoroughly repressive, the danger lies in their application and interpretation, especially when the judge is not independent.

Madagascar has ratified and domesticated most of the regional and international instruments on freedom of expression and press freedom, but does not necessarily enforce them.

No prior authorisation is required to set up print media outlets: all that is needed is a mandatory declaration to the Public Prosecutor. The same applies to professional websites and online media that employ journalists. Sources of information for journalists and media professionals are protected by the Communication Code, but in practice journalists have been forced to reveal their sources under pressure from the judge. There is no specific law on access to information which makes it difficult for journalists to access public information. The Malagasy Charter on Access to Information and Knowledge Sharing is a non-binding text that has been implemented by the Committee for the Safeguarding of Integrity (CSI).

The state does not seek to block internet content. All websites and social media are accessible to citizens. However, it seems as though the state, through its agents or the cybercrime unit, seeks to increase surveillance, particularly on social media. At the same time, the country does not have a clear policy on information and communication technologies. Some actions are carried out depending on partnerships and opportunities provided to the country.

Journalists and civil society organisations do not actively defend the cause of press freedom, especially during attacks on journalists and press freedom. Nevertheless, they collaborated in 2016 to denounce the repressive nature of the provisions of the Communication Code. Although consultations were held during the drafting of the Communication Code, not all stakeholders were involved in the process. In the consultation process for amendments to the Communication Code, the Ministry of Communication and Culture just selected the people who participated in the regional consultation workshops. The amendments were examined expeditiously and given opinions/views were not taken into account in the text forwarded to the Council of Ministers.

Madagascar has a wide range of information sources including almost 250 radio stations, about 30 television stations, approximately 20 daily newspapers, around 10 magazines and about 10 main websites and online media. Internet, and media in general, are a luxury for most households whose main concern is survival. The daily newspaper costs US\$0.20, which corresponds to the price of a loaf of bread. Access to national and international media is free, but it is limited by citizen's financial means when it comes to connecting to the internet. Critical papers can be easily consulted through specialised libraries or the internet.

The state does not have an official print media. However, there is a national information agency (ANTA), a body attached to the Ministry of Communication and Culture, whose legal status remains unclear. This agency regularly publishes information on its website. Transparency of media ownership is guaranteed by law, but not implemented. Some owners of private media houses serve in the government, but these outlets do not make any mention of them.

A competition law for companies does exist which also regulates media houses. The Communication Code entrusts the regulation of competition to the National Authority for the Regulation of Media Communication (ANRCM), which is not yet set up. The law does not mention any specifics of the regulation, thus leaving the field open for each to interpret what is not provided by the law. This situation raises doubts about the impartiality and independence of this entity.

There is no specific government policy to promote a diverse media landscape, with economically sustainable and independent media houses. From the broadcasting perspective, some projects have been carried out to cover land-locked areas. From 2020, when the complete switchover to digital terrestrial television will have been achieved, private channels will be able to broadcast throughout the country. In print media, dissemination is hampered as there is no system set up to support the press. Madagascar has ratified the Florence Agreement which advocates the tax exemption to the production of cultural works and the mind,

including the media. But in practice, newsprint and other materials necessary for the work of the media and newsrooms (cameras, video cameras, computers, etc) remain subject to taxes like any other imported products. Only a few media outfits close to the government benefit from this support.

The voices of women and men are not equally represented in the media. Women are under-represented in media content. The Malagasy language (a national language spoken throughout the country) allows minorities to have equitable access to national media content. There is no particular discrimination in the media and equal opportunities are promoted. However, it is often difficult for minorities to work in the media in some regions because of stigma and marginalisation.

All topics are covered and all social events are reported, however very few investigative reports are carried out due to the limited resources available to the media, caution on the part of journalists and the difficulty of accessing information. Private broadcasters offer quality programmes. The programmes are diverse, but they do not specifically serve the public interest: rather, they are aimed at satisfying the listeners and viewer's requests. This encourages the emergence of programmes whose concept is copied from elsewhere. Production capacity is also lacking.

The advertising market is not large enough to allow all media houses to be sustainable and profitable. A few major newspapers and stations capture most of the advertising market. Some are subsidised by their owners, sponsors or develop other activities. Due to the absence of a central advertising agency, there are no statistics available with regard to the volume of the advertising market. Business owners, particularly mobile telecommunications companies and food producers hold the majority of the advertising market. The government regularly places institutional adverts (calls for expressions of interest or tenders) in media outlets close to their circle.

The broadcasting legislation of the Communication Code has not yet been implemented. The institutions and bodies provided for in this law have not yet been established. With no broadcasting regulatory body, the Ministry of Communication gives approval for the granting of licenses, although this is currently on hold. The ANRCM, in charge of regulating broadcasting, has been created by law but has not yet been set up. The Communication Act guarantees independence to ANRCM through the composition of its members. Some licenses are granted in the interest of notables and those with political, economic or religious power.

The Madagascar Radio and Television Office (ORTM) is the public broadcaster that includes TVM (the national television) and RNM (the national radio). TVM and RNM have a common board of directors composed of civil servants representing ministries and chaired by the secretary general of the Ministry of Communication and Culture. This board is therefore not independent and the editorial independence of ORTM is not guaranteed by law. ORTM's funding is not adequate as 30% of its operating budget comes from the government, and the

remaining 70% comes from advertising revenues and various services. ORTM's programmes are diverse and particular emphasis is placed on local and regional content.

The way in which journalists process information is often questionable as the line between fact and opinion is quite thin. Biased and self-serving comments take over facts. This situation is fuelled by the great level of disparity among journalists. However, experienced journalists are considered to do their job adequately. There is no self-regulatory body. The OJM,¹ which is enshrined by law, has been given the mandate to guarantee the rules of ethics and professional conduct.

The minimum starting monthly wage is 200,000 ariary (US\$54) however some media houses frequently pay their journalists less than this, often without any employment contract. Media houses often do not hire qualified journalists which encourages the practice of *felaka*.² The living conditions of journalists remain poor, which fosters corruption. However, some bodies strive to offer employees a decent salary and social benefits, such as health coverage, pension and insurance.

A new journalists' trade union is currently being established. In addition, many professional associations are active, both in the main city and the provinces, that actively represent the interests of their members.

Many journalists and editors practice self-censorship due to fear of reprisals, especially when it comes to sensitive topics. Sometimes, media owners clearly indicate what information has to be avoided. The fear of losing advertisers also limits the room for manoeuvre within the media. This self-censorship practise may lead to withholding information useful to society and public interest.

Many public and private universities offer training courses which lead to a bachelor's or master's degree. However, some institutions offering journalism teach only the basics and a general introduction to communication. Many training initiatives are carried out to upgrade journalists' skills but in practice they do not significantly improve the quality of journalists' work.

1 In its article 59, the media communication code provides that the Council of the Order of Journalists is to be set up as a disciplinary council to find journalists' breaches of the rules of ethics and professional conduct.

2 Bribes in the form of money given in an envelope to thank journalists for their services.



SECTOR 1:

Freedom of expression, including freedom of the media, is effectively protected and promoted

1.1 Freedom of expression, including the freedom of the media, is guaranteed by the constitution and supported by other pieces of legislation

Freedom of expression and freedom of the media are guaranteed in Madagascar through several pieces of legislation. In the constitution, passed in November 2010, freedom of expression is guaranteed in article 10, which states:

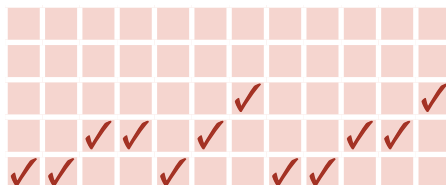
The freedoms of opinion and of expression, of communication, of the press, of association, of assembly, of circulation, of conscience and of religion are guaranteed to all and may only be limited by the respect for the freedoms and rights of others, and by the imperative of safeguarding the public order, the national dignity and the security of the State.

The penultimate laws governing media communication date back to the 1990s, in particular Law No. 90-031 of 21 October 1990 on communication, and Ordinance No. 92-039 of 14 September 1992 on broadcast communication. More recently, on 14 July 2016, Madagascar passed Law No. 2016-029 on the Media Communication Code³ which promotes freedom of expression but sets some limits, particularly on image rights issues and on the maximum fines allowed.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

4.3

2006: 3; 2008: 3.5; 2010: 4; 2012: 4.6; 2016: 3.7

1.2 The right to freedom of expression is practised and the citizens, including journalists, are asserting their rights without fear

The panel stressed that although the existing legislation guarantees the practice of freedom of expression, clauses within the Communication Code effectively limit this freedom.

Panelists expressed concern about the noticeable decline of the right to freedom of expression. Citizens and journalists practise their rights with apprehension

3 Henceforth in this text, this law is referred to as the "Communication Code". At the time of this AMB, the Draft Law amending certain provisions of the Communication Code had been validated by the Council of Ministers but had not yet been forwarded for adoption by parliament.

and caution. On 20 October 2019, the President of the Republic spoke openly at a public event in Antsirabe, the country's third largest city, saying, 'Those who refuse progress, those who hinder our progress and those who are opposed to development are enemies of the nation.' The panel pointed out that this may imply that those who dare to openly criticise the administration may be subject to particular repression.

All journalists, whether in the opposition press, the private press or the public media, have to be cautious about what they say, publish or state in the public arena. There have been many trials against journalists, such as the "Helicopter Case" (30 August 2019). This case involved photographs of a helicopter flying over the Mahamasina Municipal Stadium being published by a journalist from the Malagasy Broadcasting System (MBS),⁴ a journalist from *24h Mada* online media and the Antananarivo Urban Municipality's Facebook page. Following a complaint filed by the Malagasy Army, this incident became a judicial case and the journalists were each fined 10 million ariary (US\$2,600).⁵

In this specific case, the court applied the new article 20 of Act No. 2016-031 (which changed certain provisions of Act No. 2014-006 of 17 July 2014 on the fight against cybercrime),⁶ which provides:

Any insult or defamation committed (...) against the National Armed Forces or a State (...) shall be punishable by a fine of 2,000,000 ariary (US\$532) to 100,000,000 ariary (US\$26,600).

The pressure on social media activists is even greater, due to the aggressiveness of administrative defenders and some members of the administration who are omnipresent on social media. Some activists face real threats, while others have experienced intrusion into their private lives. A slander campaign has also been conducted. For example, citizens who criticise the government are facing harsh retaliation from "sympathisers" of the administration which has led to personal files being released into the public arena. An activist who published the president's travel schedule was remanded in custody.

The panel was concerned about whether media houses are willing or able to protect their journalists when faced with personal attacks. Journalists are often limited by the editorial line of their organisation or by the willing of press owners who must navigate according to the political context. Some press lords are among those who are in power. The panel also deplored the repression of demonstrators and found the Cybercrime Act to be repressive. One panellist noted that of its 41 existing articles, 20 are devoted to fines. Another panellist considers this instrument to be an extension of the Criminal Code.

For the public service, despite efforts to open up the national television and radio channels to other horizons, particularly to opponents, the control of the ministry in charge, the Ministry of Communication and Culture (MCC), means

4 A press group belonging to Marc Ravalomanana, former President of the Republic, who is the main opponent to the Andry Rajoelina administration.

5 <https://web.facebook.com/24hMada/> (accessed on 31 October 2019)

6 http://edbm.mg/wp-content/uploads/2017/12/Loi_2014_006_cybercriminalite.pdf (accessed on 5 November 2019)

that public service journalists must abide by state guidelines. True fairness and equality are achieved only during the election period. Indeed, the electoral law requires that both private and public media allow competing candidates from all political groups to voice their opinions in a fair and transparent way.

From the publication of the official list of candidates, lists of candidates or options, until the opening of the official electoral campaign, the National Authority for Media Communication (ANRCM) guarantees the right of access to all public and private radio and television broadcasting services for all candidates, lists of candidates or options and their supporters, while respecting the principle of the pluralist nature of the expression of political thoughts and opinions (...).⁷

Scores:

Individual scores:

[illegible]

Average score:

Score of previous years:

1.3

2006: 2.4; 2008: 2.3; 2010: 2.5; 2012: 2.8; 2016: 2

1.3 There are no laws or parts of laws restricting freedom of expression such as excessive official secret, libel acts, legal requirements that restrict the entry into the journalistic profession or laws that unreasonably interfere with the functions of the media

The amendment of article 20 of the Cybercrime Act⁸ removed prison sentences for press offences. The draft law also amended certain provisions of the Communication Code at the request of media professionals, but added some restrictions. For example, the fine limits have been increased and laws on image rights have been added. This new law stipulates that the subject of a photograph has the right to sue the photographer. Publishing satirical and parodic images can result in fines ranging from 3,000,000 ariary (US\$815) to 6,000,000 ariary (US\$1,630).

7 <https://www.ceni-madagascar.mg/wp-content/uploads/2016/05/Loi-organique-n%C2%B0-2018-008-relative-a-r%C3%A9gime-g%C3%A9n%C3%A9ral-des-r%C3%A9lections-et-des-r%C3%A9f%C3%A9rendums.pdf>: article 110, 111, 112 and 113. (accessed on 4 November 2019)

8 Article 20 Law on Cybercrime

The preliminary draft law amended certain provisions of the Communication Code and was adopted by the Council of Ministers.⁹ Although this law is not expressly limiting, its application and assessment may lead to the restriction of expression. For instance, the notion of breach to state security is completely at the discretion of the judge. This constitutes a real threat if the judge is not independent.

The new article 20 states:

The right to an image is the right for any person to oppose both the capture of his/her image and properties, and the dissemination thereof, without his/her prior and express consent. (...) In the event of invasion of privacy and violation of image rights, the judge hearing the case, without prejudice to the application of the legislation governing civil procedure and regardless of the criminal sanctions provided for herein, may order:

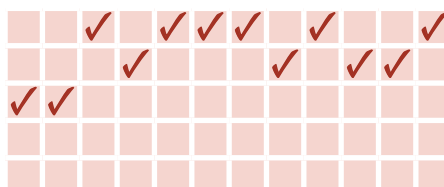
- Seizure, sequestration, removal of contentious passages, publication of an insert, and penalty payment;
- Sentencing the infringer to pay damages, whether it is a television channel, a press magazine, a photographer or a stranger;
- The removal of illegal content, in particular videos, photographs, or any other media that may abuse the person's rights;
- The restitution of any original photographs;
- The prohibition of the redistribution of contentious content;
- The publication or insertion of the court decision in the press. (...)

The following are considered as an invasion of privacy: disclosure of anyone's privacy: (...) The publication, by any means whatsoever, of a montage made with the words or image of a person, without his consent, if it does not appear obvious that it is a montage (...)

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

1.7

2006: n/a; 2008: n/a; 2010: n/a; 2012: n/a; 2016: 2.8

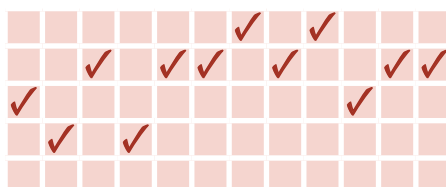
1.4 The government makes every effort to honour national and international instruments on freedom of expression and freedom of the media

Madagascar has ratified most regional and international instruments on freedom of expression and freedom of the press, including the African Charter on Human and Peoples' Rights, which clearly states in article 9 that everyone "has the right to information" and "to express and disseminate his or her opinions within the framework of laws and regulations". The domestication of these instruments has been carried out in the national legislation, but panellists feel that the administration does not necessarily honour the implementation thereof.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

2.3

Score of previous years:

2006: n/a; 2008: n/a; 2010: 2.4; 2012: 2; 2016: 2.7

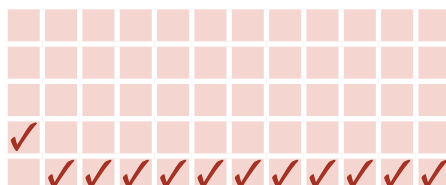
1.5 Print publications are not required to obtain permission to publish from state authorities

No prior authorisation is required to create a newspaper, except a mandatory declaration to the Public Prosecutor which needs to include details of the publication's management, the technical data sheet and the identity of the editor-in-chief. Legal deposit has been transferred to the Ministry of Communication and Culture, as an archive, and no longer to the Ministry of the Interior and Decentralisation because of the prohibition of any form of censorship.¹⁰

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

4.9

Score of previous years:

2006: n/a; 2008: n/a; 2010: 5; 2012: 2.1; 2016: 4.6

¹⁰ Explanatory statement about the amendments on the Code of Communication

1.6 Confidential sources of information are protected by the legislation and/or the courts

Sources of information are protected by the Communication Code, which covers security provisions for media practitioners, including the inviolability of media outlets, the protection of journalists' materials and equipment and the protection of information sources. Articles 9 to 12 highlight the protection of information sources.

Article 11 provides that:

The protection of the sources of information referred to (...) may be withdrawn only at the request of judicial authorities if it is likely to prevent the commission of offences constituting a serious threat to the physical integrity of one or more persons and if the following cumulative conditions are met:

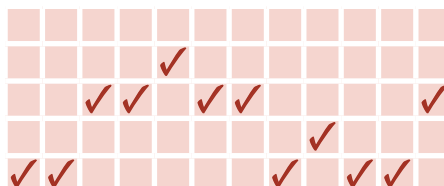
1. The information requested is of crucial importance to prevent the commission of such offences;
2. The information requested cannot be obtained in any other manner.

In practice, in specific situations, the prosecutor has put pressure on journalists to reveal their source. This was particularly true when the "Helicopter Case" occurred. A journalist revealed the source of his information out of fear and especially out of ignorance of his rights.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

3.8

Score of previous years:

2006: 1.5; 2008: 3.4; 2010: 3.2; 2012: 4.5; 2016: 3.4

1.7 Public information is easily accessible, guaranteed by law to all citizens

Article 7 of the Communication Code¹¹ and article 19 of the Universal Declaration of Human Rights establish the principle of access to information. However, no specific law on access to information is yet in force. The project is underway with the Committee for the Safeguarding of Integrity (CSI)¹², but no progress has been made. This makes it difficult to access public information. Even data on media statistics are difficult to obtain.

However, there is a charter for access to information and knowledge-sharing.¹³ The draft charter was launched by the National Integrity Observatory in partnership with the Governance and Institutional Development Project (PGDI) in December 2013. At the time, it aimed to launch a process for adopting and monitoring access to public information. About thirty entities with public information were invited to sign the charter including the Public Treasury, the Ministry of Trade, the Financial Intelligence Service (SAMIFIN), the Independent Anti-Corruption Bureau (BIANCO), the Chamber of Commerce and Industry, the Ministry of Mining, the National Environment Office (ONE), the National Archives, the Malagasy Academy and the Reformed Malagasy Church. This charter is not binding, but is simply a moral guarantee for the institutions that apply it.

In addition, through the Communication Code, which sets out to define "... the conditions, modalities and procedures for access to the administrative documents of public bodies by regulatory means" (article 7), the state seeks to compel public institutions to limit citizens' and people's access to public information. Through an order,¹⁴ the High Constitutional Court (HCC) expressed the view that any restrictions on access to information should be expressly laid down by law on the basis of the requirements of "respect for the rights or reputation of others" and "the protection of national security, public order, health or public morals" provided for in article 19.3 of the International Covenant on Civil and Political Rights. In doing so, the court encourages reference to the Charter on Access to Information and Knowledge Sharing.¹⁵ However, this order was not taken into account in the amendment of the Communication Code.

11 Law on Communication article 6 and 7.

12 Committee for the Safeguarding of Integrity is an institution tied to the president's office. It is tasked with promoting good governance, public administration transparency and fighting corruption, namely through access to information.

13 http://www.csi.gov.mg/wp-content/uploads/2014/05/Charte_acces-l-information_Version-finale.pdf (accessed on 7 November 2019)

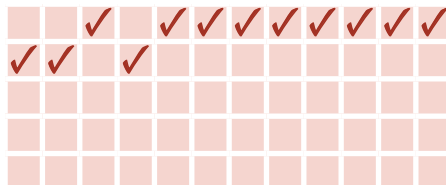
14 Order No. 30-HCC/D3 of 12 August 2016 related to the law No. 2016-029 on Media Communication Code (<http://www.hcc.gov.mg/decisions/d3/decision-n-30-hccd3-du-12-aout-2016-relative-a-la-loi-n2016-029-portant-code-de-la-communication-mediatisee/>) (accessed on 8 November 2019)

15 http://www.csi.gov.mg/wp-content/uploads/2014/05/Charte_acces-l-information_Version-finale.pdf (accessed on 7 November 2019)

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

1.3

Score of previous years:

2006: 1.6; 2008: 1.5; 2010: 2.3; 2012: 1.5; 2016: 1.6

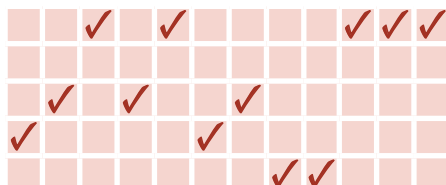
1.8 Websites, blogs and other digital platforms are not required to register with or obtain permission, from state authorities

A website dealing with general information (such as entertainment and online sales) can be created freely. The situation is different for information websites. The online media organisation is required to supply the digital identifier of the site as well as the identity of its administrator to ANRCM and the Ministry of Communication and Culture (MCC). In order for journalists of online information sites to enjoy the advantages designed for press professionals, such as a press card, the Communication Code also requires a declaration.¹⁶

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

2.7

Score of previous years:

2006: n/a; 2008: n/a; 2010: 4.9; 2012: 4.8; 2016: 4.7

NB: Here, opinions are divided: some members of the panel stressed freedom and the declaration system, others stressed the lack of proper regulation.

¹⁶ Article 100 of the Communication Code.

1.9 The state does not seek to block or filter internet content unless in accordance with laws that provide for restrictions that serve a legitimate interest and are necessary in a democratic society and which are applied by independent courts

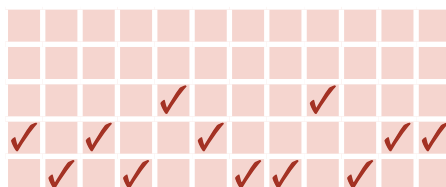
The State does not seek to block internet content. All sites, even those considered as illegal in other countries, and social media are accessible to citizens. However, there are times when websites cannot be accessed. For example, during the second round of the 2018 presidential election, the Independent National Electoral Commission's (CENI)¹⁷ website could not be accessed, resulting in citizens being unable to monitor election results in real time. CENI gave no clear explanation for this.

Panellists felt that generally the state, through its agents or the cybercrime unit attached to the MCC, seeks to increase surveillance, particularly on social media: the authorities carry out monitoring. A panellist pointed out that senior officials show their willingness to control or block social media when the debates flame up. Today social media, especially Facebook, have been democratised by operators.¹⁸ This social network has become an ideal medium for citizens and activists to express themselves, and the administration is keeping a close watch on posted comments.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

4.3

Score of previous years:

2006: n/a; 2008: n/a; 2010: 4.6; 2012: 4.5; 2016: 2.6

1.10 Civil society in general and the media lobby groups actively advance the cause of media freedom

The panel pointed out that civil society organisations (CSOs) are used by some as a springboard to reach public positions or mandates.¹⁹ In many cases, media is just a way to help them achieve this goal. Although collaboration between

¹⁷ CENI: www.ceni.mg; during the second round of the presidential election in 2018, the site of the National commission was temporarily unavailable.

¹⁸ A business operator has made a commercial offer providing a week-long access to Facebook at US\$0.13.

¹⁹ The president of the High Constitutional Court is a former member of the SEFAFI. The same with the president of the CSI, as well as the prime minister. Several senior government officials have once been active within CSOs.

journalists and CSOs is regular, the latter do not automatically or systematically defend journalists. A slim few CSOs actively defend media freedom, such as Ilontsera.²⁰ Early in 2016, in an effort to draw attention to the difficulties of access to information, Ilontsera conducted a survey which collected the opinions of 134 journalists from 17 public and private institutions in Antananarivo. The CSOs had already drawn attention to the difficulties of access to information.

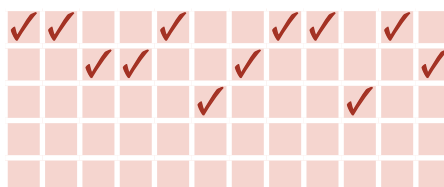
In 2019, at the time of the “Helicopter Case”, no CSOs stepped up to defend the journalists involved. This was also the case when the daily L’Express de Madagascar was at the heart of a social-media storm. On 5 October 2019, this paper’s frontpage headline read: “Travel abroad – restriction on travel abroad for women”. The article was massively shared and public opinion condemned the facts reported. The headline and content caused an outcry from the administration. Even the President of the Republic reacted through his Facebook page to condemn the newspaper in what he called “disinformation”. L’Express de Madagascar argued that the report was carried out in accordance with the professional standards. In the heat of the moment, some journalists openly attacked their L’Express de Madagascar colleagues. A few weeks later, the Observatory of Public Life (SEFAFI)²¹ openly criticised journalism in a press release entitled “The culture of privilege, higher education and the media”.²² Despite this animosity, CSOs did support the media in the Freedom of Expression Movement (MLE) in 2016, which fought to amend the original Communication Code to guarantee the exercise of the profession of journalists throughout the republic.

The panel stressed out that this mistrust among both sides stems from a loss of confidence and the absence of a real lobby group where journalists can stand together. Nevertheless, panellists believe the media should be defended, despite its imperfection.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

1.7

Score of previous years:

2006: 1.8; 2008: 2; 2010: 2.4; 2012: 4.4; 2016: 2.3

20 <http://www.ilontsera.mg/> (accessed on 8 November 2019)

21 SEFAFI is an association whose vocation is to identify and examine societal problems, and communicate the findings of its work in view of enhanced democracy and rule of law.

22 <https://www.sefafi.mg/main/post/article/468> (accessed on 8 November 2019)

1.11 Media legislation evolves from a meaningful consultation among state institutions, citizens and interest groups

Although consultations were held during the drafting of the Communication Code, not all stakeholders were involved in the process. For example, the National Consumer Defense Network (RNDC), trade union organisations and some members of the press were not invited.

As part of the consultations on the amendments to the Communication Code, regional consultation workshops were held in the period from June to July 2019 in the following provinces: Mahajanga, Toamasina, Antananarivo, Antsirabe, Antsiranana, Fianarantsoa and Toliara. A widely distributed announcement was made, not only to media professionals, but also to the general public. However, many of the opinions expressed at these workshops were not included in the text forwarded to the Council of Ministers.²³ This is believed to be due to time constraints. The workshops were carried out in an expeditious arrangement and there was not enough time for reflection. The voiced opinions were not included in the text forwarded to the Council of Ministers.

Scores:

Individual scores:

1	Country does not meet indicator	✓				✓	✓	✓	✓	✓		✓	✓
2	Country meets only a few aspects of indicator			✓	✓								
3	Country meets some aspects of indicator		✓									✓	
4	Country meets most aspects of indicator												
5	Country meets all aspects of the indicator												

Average score:

1.5

Score of previous years:

2006: n/a; 2008: n/a; 2010: 2.3; 2012: 2.1; 2016: 2.1

Overall Score for Sector 1:

2.7

²³ Many recommendations were made during the regional workshops. For example, participants asked that the Order of Journalists of Madagascar (OJM) no longer be integrated into the provisions of the text, in the logic of a gradual shift towards the establishment of a trade-union. However, the OJM would still occupy a preponderant place in the regulation of the exercise of professional journalism, in particular as regards ethics and professional conduct, and especially through the disciplinary council. The chapter on image rights also crystallised all the criticisms. The participants recommended that it should be amended according to the very principle of the journalist's fact-finding mission. However, these recommendations were not considered. The criminal sanctions provided by the new article 20 are heavy in the event of invasion of privacy and the right to image.



SECTOR 2:

The media landscape, including new media, is characterised by diversity, independence and sustainability

2.1 A wide range of sources of information (print, broadcasting, internet, mobile phones) is accessible and affordable to citizens

A large spectrum of information sources is available. Madagascar has nearly 250 radio stations, about 30 television stations, around 20 daily newspapers and approximately 10 magazines as well as about 10 main “pure-players” sites and blogs, which are active with respectable audiences.

The Communication Code also provides for flexibility regarding rules governing national coverage. National coverage is granted to all public and private media subject to their switch to the DTT (digital terrestrial television) transmission mode. Regarding their specifications, article 126 states:

Private radio and television stations choose between seven topics, namely education, information, sport, entertainment, art and culture, economy and music. A license corresponds to a topic. The licensing of each topic is carried out through a call for tenders process.

Distribution of newspapers outside of Antananarivo is problematic. In Toamasina, the second largest city in Madagascar, newspapers usually arrive a day late. In some places, like Ambovombe,²⁴ newspapers are not available. Panellists felt that, as such, the most reliable sources of information are the public broadcaster, community radio stations and satellite packages. The latter are quite a luxury for most households. Panellists also suggested that most community radio stations are owned by politicians or business owners.

Internet access is expensive, despite the profusion of offers provided by both mobile and internet service providers. In Ambovombe, it costs 200 ariary (US\$0.05) to connect to the internet for one minute in a cybercafé. The cost for an hour is 12,000 ariary (US\$3.42).

The internet and access to the media are considered a luxury for most households, whose main concern remains survival. The distribution of daily newspapers is carried out by an informal system of organisation led by “wholesale” newspaper sellers. The average price of a daily newspaper is 500 ariary (US\$0.13) which is about the same price as a loaf of bread.

²⁴ Ambovombe is the main city in the Androy Region, located in the Province of Tulear on the south coast of Madagascar.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

3.3

Score of previous years:

2006: 2.8; 2008: 2.3; 2010: 2.1; 2012: 3.8; 2016: 3.7

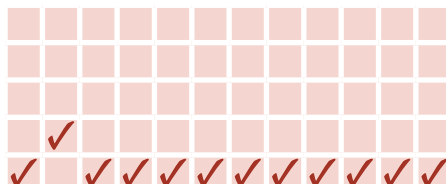
2.2 Citizens' access to domestic and international media sources is not restricted by state authorities

Access to domestic and international media is free, but is limited by citizens financial means when it comes to connecting to the internet. Critical papers can be consulted through specialised bookshops or the internet.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

4.9

Score of previous years:

2006: 3.4; 2008: 4.5; 2010: 5; 2012: 4.5; 2016: 2.8

2.3 The editorial independence of the print media published by a public authority is protected adequately against undue political interference

The state has no official print media. However, the Taratra National Information Agency (ANTA),²⁵ an organisation attached to the MCC, collects information that it regularly publishes on its website. It has an editor and editorial team. Its director was appointed by the Council of Ministers. ANTA has a rare and precious photo library. However, it does not fulfil the role of an official information agency and has a vague legal status. In 1992, a decree to dissolve and liquidate ANTA was published (decree no. 92-435 of 10 April 1992). However, ANTA continued its

²⁵ <http://agenceanta.com/> (accessed on 29 October 2019)

normal publishing activities and in 1995 its status as an industrial and commercial public institution was restored by decree no. 95-632.

Scores:

Individual scores:

1	Country does not meet indicator	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
2	Country meets only a few aspects of indicator		✓									✓		
3	Country meets some aspects of indicator						✓							
4	Country meets most aspects of indicator													
5	Country meets all aspects of the indicator													

Average score:

1.3

Score of previous years:

2006: n/a; 2008: n/a; 2010: n/a; 2012: n/a; 2016: n/a

2.4 Transparency of ownership of media houses in print/broadcasting is guaranteed by law and enforced

Article 102 of the Communication Code states:

In any press publication, the following information shall be included in the copies to be published:

- the full name of the owner and co-owner of the newspaper company;
- the name or corporate name, registered office, legal form and name of the legal representative of the publishing company;
- the names of the publishing manager and publishing co-manager;
- the name of the editor-in-chief;
- the number of circulations, the date of the edition and the vintage;
- the printer's legal deposit number; and
- the publisher's legal deposit number.

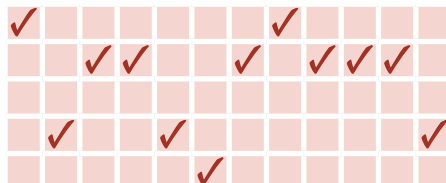
Any violation of the provisions of this article is punishable by a fine of ariary 1,000,000 (US\$267) to ariary 2,000,000 (US\$534) against the owner of the company or the publication manager.

Panelists felt that although transparency of ownership is guaranteed by law, it is not implemented. Some media outlet owners are members of government, but none of their outlets mention them.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

2.6

2006: n/a; 2008: n/a; 2010: n/a; 2012: n/a; 2016: 2.3

2.5 Adequate competition legislation/regulation seeks to prevent media concentration and monopolies

Most media organisations have the status of commercial companies. They are governed by the competition law (Law No. 2005-020 of 17 October 2005).²⁶ The Communication Code provides that ANRCM is in charge of the regulation of the sector.

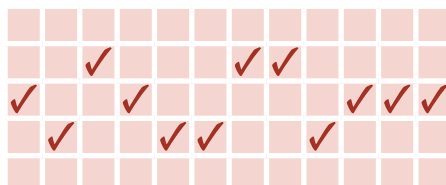
Article 51 new: An independent administrative authority is hereby established, called the National Authority for the Regulation of Media Communication, in short ANRCM.

However, there are no specific details on how this regulation should be implemented. This failure to specify, the Act leaves a great deal of latitude for the regulator, which has not yet been put in place.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

3.1

2006: 2; 2008: 1.8; 2010: 1.5; 2012: 1.6; 2016: 1.3

²⁶ https://edbm.mg/wp-content/uploads/2017/12/Loi-2005-020_concurrence.pdf (accessed on 4 November 2019)

2.6 Government promotes a diverse media landscape with economically sustainable and independent media outlets

Panelists felt that the government does not promote any specific and clear policy to establish a diverse media landscape, with economically sustainable and independent media houses. Regarding broadcasting, some projects have been carried out to ensure that isolated areas benefit from media coverage. In partnership with the Chinese operator Startimes, 500 villages were equipped with set-top boxes, which allows them to access international and local channels broadcast through the operators' services. Due to the Communication Code, private channels will now be able to broadcast at the national level via DTT. The global switchover is planned for 2020.

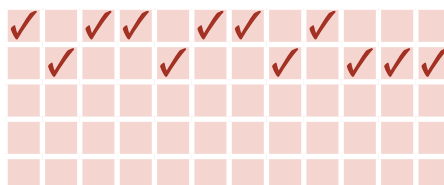
In print media, distribution is hampered by a difficult economic context because there is no system to support the press. Madagascar has ratified the Florence Agreement.²⁷ Its content has been assimilated by the Customs Directorate, but in practice the papers and other materials necessary for the work of the media and editorial offices (such as cameras, video cameras and computers) remain subject to taxes like any other imported products. Media outlets are subject to taxes in the same way as commercial companies.

To be eligible for exemption from customs duties, the duty-free admission of goods intended for the press is subject to a decision taken in a cabinet meeting, upon presentation of a communication to the Council of Ministers by the ministry in charge, i.e. the MCC. However, this little-known lever has been politically exploited. Only media outlet owners close to the government are able to benefit from this provision. Without funds injected by owners and sponsors, the media remain extremely vulnerable.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

1.5

2006: n/a; 2008: n/a; 2010: 1.2; 2012: 1.3; 2016: 1.5

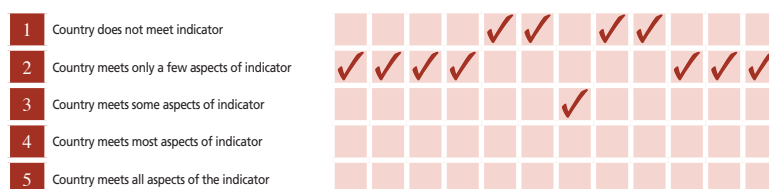
27 http://www.douanes.gov.mg/sites/default/files/upload/page/douane_madagascar_douane_madagascar_accord_de_florence.pdf (accessed on 4 November 2019)

2.7 All media fairly represent the voices of both women and men

Women and men's voices are not equally represented in all media and women are under-represented. Paradoxically, more and more women are choosing the journalism path. In editorial offices, many women are either editorial managers or journalists. Women have a voice when it comes to specific issues (such as society, consumption, fashion, cooking and gender). Journalists rarely consider women as sources of information when it comes to more specialised or more "scientific" topics (such as economics and politics). However, there are many initiatives to promote women in newsrooms.

Scores:

Individual scores:



Average score:

1.8

Score of previous years:

2006: n/a; 2008: n/a; 2010: 3.3; 2012: 2.9; 2016: 2.6

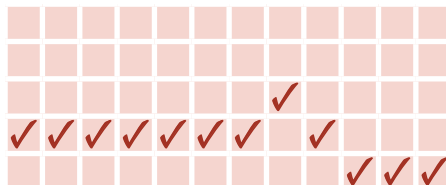
2.8 All media fairly represent the voices of society and its minorities in its ethnic, linguistic, religious diversity

Thanks to the Malagasy language (a language spoken throughout the country) minorities can follow the media content and find themselves in it. In newsrooms, hiring people with disabilities is not a particular issue. It is also common to appoint women to positions of responsibility. With regard to religious issues, panellists felt that no particular discrimination is noticed, but the coverage is carried out according to the context, in particular Christian or Muslim events. Sexual orientation is not a real issue in city newsrooms. It is often difficult for minorities to work in the media in some regions, such as Toamasina, due to a certain stigmatisation and marginalisation.

Scores:

Individual scores:

- | | |
|---|---|
| 1 | Country does not meet indicator |
| 2 | Country meets only a few aspects of indicator |
| 3 | Country meets some aspects of indicator |
| 4 | Country meets most aspects of indicator |
| 5 | Country meets all aspects of the indicator |



Average score:

4.2

Score of previous years:

2006: n/a; 2008: n/a; 2010: 2.3; 2012: 3.1; 2016: 3

2.9 Media cover the full spectrum of economic, cultural, political, social, national and local perspectives and conduct investigative stories

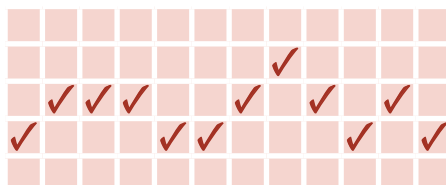
Few investigative stories are carried out because of the difficulty in accessing information, caution of journalists and limited resources. However, all topics are covered and all social facts are reported, for example it is not uncommon for sports or cultural facts to make the headlines in print media. The public service media also report on what is happening in other regions of Madagascar through local correspondents and local radio stations.

Panellists noted Transparency International's "Malina" initiative as well as the creation of the investigative magazine, "Trandraka", launched on 21 July 2017 and produced in collaboration with UNESCO and the OJM. Both of these initiatives offer platforms for publishing journalistic investigative stories.

Scores:

Individual scores:

- | | |
|---|---|
| 1 | Country does not meet indicator |
| 2 | Country meets only a few aspects of indicator |
| 3 | Country meets some aspects of indicator |
| 4 | Country meets most aspects of indicator |
| 5 | Country meets all aspects of the indicator |



Average score:

3.3

Score of previous years:

2006: 3.5; 2008: 2.8; 2010: 3.9; 2012: 3.6; 2016: 2.2

2.10 Private broadcasters deliver a minimum of quality public interest programmes

Private broadcasters offer better quality programmes than those provided by public channels. Television programmes are diverse and of high quality, but they do not specifically serve the public interest. The race for viewer figures and commercial contracts has led to the birth of shows with concepts copied from foreign ones, such as TV or radio singing competition shows or reality shows.

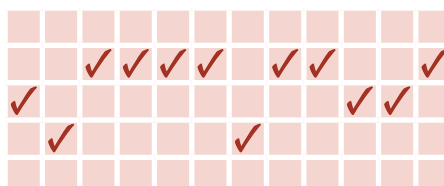
The panel deplored the quality of most of the programmes but felt that generally private broadcasters must adapt to the public's demand for entertainment in order to survive, as they receive no subsidies. Most televisions are commercial in nature. Production capacity is also poor.

Private radio stations offer a range of programmes of very good quality and that often serve the public interest.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

2.6

2006: n/a; 2008: n/a; 2010: n/a; 2012: n/a; 2016: 2.8

2.11 The country has a coherent ICT policy and/or the government implements promotional measures which aim to meet the information needs of all citizens, including marginalised communities

The country has no clear policy in terms of ICT. The International Telecommunication Union guidelines are followed, and specific actions for ICT development are implemented through partnerships and opportunities provided to the country. A Directorate for Switching to Digital Terrestrial Television (DBTNT) has been set up to carry out studies, deployment and regulation of radio and DTT. It also ensures the strengthening of radio and television production units.

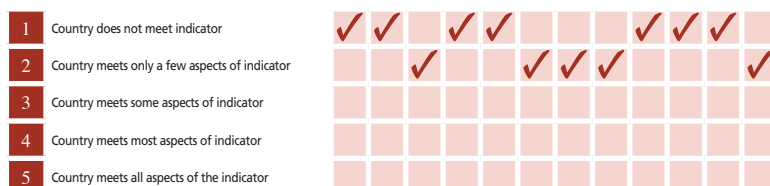
The Madagascar Emergence Initiative (IEM)²⁸ gives special attention to ICT, but currently has no concrete implementation policy. The distribution of tablets in schools is one of the first steps undertaken. In recent years, the dematerialisation

28 Campaign program of Andry Rajoelina, President of the Republic

of the administration²⁹ using ICT has been under way, but reforms are slow to move forward.

Scores:

Individual scores:



Average score:

1.4

Score of previous years:

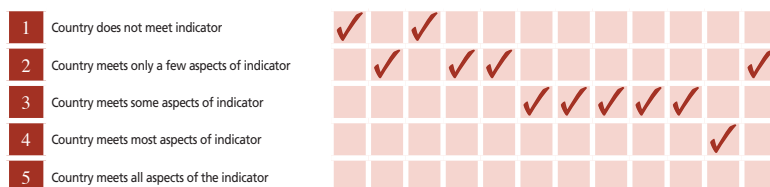
2006: n/a; 2008: n/a; 2010: 1.6; 2012: 2; 2016: 2.1

2.12 Government does not use its power over the placement of advertisements as a means to interfere with editorial content

Companies, such as mobile operators and the agro-food sector, hold the largest share of the advertising market. Panellists felt that the predominant criteria which advertisers consider is the reputation of the media outlet. The government regularly publishes institutional announcements (calls for expressions of interest or tenders), but only in those outlets that are sympathetic to the government. As a result, newspapers that have a limited audience might be awarded advertisements or announcements because their content is in line with government policy.

Scores:

Individual scores:



Average score:

2.5

Score of previous years:

2006: n/a; 2008: n/a; 2010: 2.8; 2012: 2.7; 2016: 1.6

²⁹ For instance, Hetraonline: <https://hetraonline.impots.mg/> is a site which gathers different features (registration, teledeclaration, virtual payment, consultation of tax situation) in one place. (accessed on 5 November 2019)

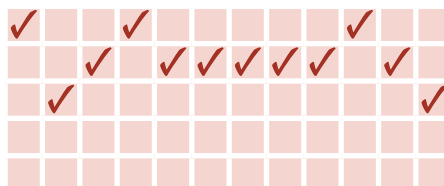
2.13 The advertising market is large enough to support a diversity of media outlets

A few major newspapers and stations hold most of the advertising market, which is not large enough to allow all media houses to be economically viable. Some are subsidised by their owners, sponsors or live off other activities. Due to the absence of a central advertising agency, a concrete assessment of the volume of the advertising market in Madagascar is unavailable. Each body has its own commercial agency that directly manages advertisements or announcements. Some communication agencies also offer an advertising service for their clients.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

1.9

Score of previous years:

2006: 2.1; 2008: 2.5; 2010: 3.4; 2012: 3; 2016: 1.8

Overall Score for Sector 2:

2.6



SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public broadcaster

3.1 Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting

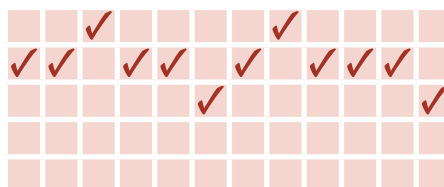
The new broadcasting legislation was passed in 2016 but it has not yet been implemented to provide for a conducive environment for public, commercial and community broadcasting. Not all the institutions provided for in the Communication Code have been established. License granting has been suspended for the past three years. The ANRCM, which is in charge of preparing tender documents for the allocation of broadcasting licenses for radio and television programmes and allocating operating licenses for audio-visual communication companies,³⁰ has not yet been established. The approval process is currently carried out by the MCC, which has launched a restructuring campaign that could be unfavourable to the private press or press owned by the opposition.

In theory, the establishment of the ANRCM should facilitate license granting and be more favourable to private and community media. However, panellists advise caution, recalling the High Audiovisual Authority, which was never set up despite the 1992 law that established it. This fact has favoured government control through the ministry in charge of communication in the management of the audiovisual sector.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

2.0

Score of previous years:

2006: 1.7; 2008: 2; 2010: 2.2; 2012: 2.7; 2016: 1.9

³⁰ Article 128 new of the Communication Code

3.2 Broadcasting is regulated by an independent body that is adequately protected by law against interference and whose board is not dominated by any particular political party and is appointed – in an open way – involving civil society and not dominated by any particular political party

Broadcasting services should be regulated by the ANRCM, under the amended Communication Code, which states that it must be an “independent” administrative authority. This communication law provides guarantees of the ANRCM’s independence through the composition of its members. New article 52 states:

The National Authority for the Regulation of Media Communication is composed of 13 members, namely:

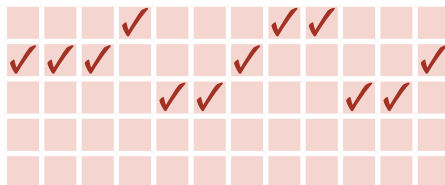
- 1 representative of the Ministry in charge of the Communication;
- 1 representative of the Ministry in charge of the Culture;
- 1 representative of the Ministry in charge of the Telecommunications
- 1 representative of the Order of Journalists of Madagascar;
- 1 magistrate elected by the Higher Council of Magistrates;
- 1 representative of the national television;
- 1 representative of national radio;
- 1 representative of private radio stations;
- 1 representative of private television stations;
- 1 representative of print media;
- 1 representative of the civil society platform working in the field of human rights;
- 1 representative of online distribution sites recognised by the OJM;
- 1 representative from the advertising sector.

This provision of the Audiovisual Media Communication Code is currently being revised, and the ANRCM is not yet in place. In order to guarantee its integrity and independence, panellists feel that an authority such as the ANRCM must move away from master-servant relationships. The ANRCM’s missions are currently carried out by the MCC, and the Authority for the Regulation of Communication Technology (ARTEC).

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

2.1

2006: n/a; 2008: n/a; 2010: 1; 2012: 1.3; 2016: 1.2

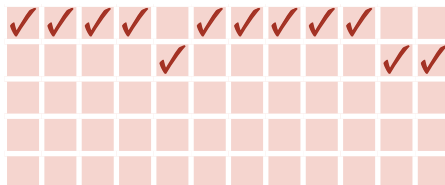
3.3 The body, which regulates broadcasting services and licences, does so in the public interest and ensures fairness and a diversity of views broadly representing society at large

Licenses are granted in the interest of notables and those with political, economic or religious power. For example, community radios are generally owned by private sector actors and politicians. However, the freezing of licensing makes it impossible to assess the policy that will be implemented when the regulatory body for audiovisual services and licenses is duly set up.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

1.3

2006: 1.1; 2008: 1.7; 2010: 1.5; 2012: 1.8; 2016: 1.6

3.4 The state/public broadcaster is accountable to the public through an independent board that is representative of the society at large and selected in an independent, open and transparent manner

The Madagascar Radio and Television Office is the state broadcaster. It is an industrial and commercial public institution which includes TVM (the national television channel) and RNM (the national radio). Since 2016, ORTM has had a board, set up by ministerial order, which includes representatives of the TVM Directorate, the RNM Directorate, the Ministry of Posts and Telecommunications, the Ministry of Economy and Finance, and ARTEC. The chairman of TVM board is the secretary general of the MCC. The board is not independent because the administration has control over it. All members are public officials and they are not appointed in a free and independent manner.

Scores:

Individual scores:

1	Country does not meet indicator	✓	✓	✓	✓			✓	✓	✓	✓		
2	Country meets only a few aspects of indicator					✓	✓					✓	✓
3	Country meets some aspects of indicator												
4	Country meets most aspects of indicator												
5	Country meets all aspects of the indicator												

Average score:

1.3

Score of previous years:

2006: 1.1; 2008: 1; 2010: 1; 2012: 1.1; 2016: 1

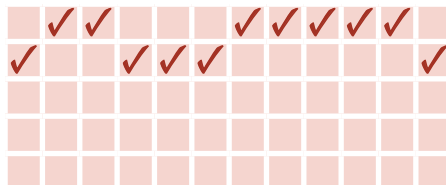
3.5 The editorial independence of the state/public broadcaster from political influence is guaranteed by law and practised to ensure balanced and fair news and current affairs programmes

The definition and roles of ORTM's public service are clearly set out in the Communication Code (articles 157 to 168). Nevertheless, editorial independence is mentioned in none of these articles. It is only during the election period that the public service has the obligation to process the information coming from all candidates in a fair manner, according to a distribution of speaking time that would be carried out by the ANRCM, once it is in place. In the meantime, it is up to CENI to play this role. Despite the efforts made, the public broadcaster is still considered to be an instrument serving the government and the administration. Reports on presidential trips or workshops involving ministers make up a larger share of airtime in TV or radio news reports.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

1.4

Score of previous years:

2006: n/a; 2008: n/a; 2010: n/a; 2012: n/a; 2016: 1.1

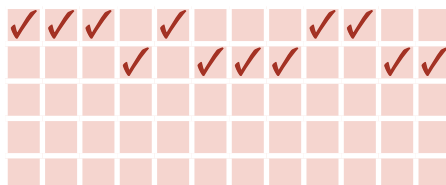
3.6 The state/public broadcaster is adequately funded in a manner that protects it from political interference through its budget and from commercial pressure

ORTM is a public industrial and commercial establishment (EPIC). Administration covers 30% of public service's operational budget, which is paid in three instalments during the year. The remaining 70% comes from advertising revenues and various services. The operational budget also covers missionaries' allowances and the salary of short-term employees, whose social security contributions are not taken into account. ORTM does not benefit from royalties. Investments in equipment are paid by the MCC. The public broadcaster also relies on public-private partnerships. The public broadcaster's financial capacity is restricted by the limited resources at its disposal.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

1.5

Score of previous years:

2006: n/a; 2008: n/a; 2010: 1.1; 2012: 1.5; 2016: 1.4

3.7 The state/public broadcaster offers diverse programming formats for all interests including local content and quality public interest programmes

Panelists are of the opinion that the public broadcaster makes an effort to offer diverse programming formats with a particular emphasis on local and regional content. It promotes public interest through quality content compared to that of private organisations. It can also produce magazines of excellent quality due to partnerships with advertisers. Panelists felt that the only problem is that television and radio news do not get the same qualitative treatment as broadcasts and magazines, and therefore news reports have low quality framing, voice-over or other technical criteria.

Scores:

Individual scores:

Indicator	Country	Country does not meet indicator	Country meets only a few aspects of indicator	Country meets some aspects of indicator	Country meets most aspects of indicator	Country meets all aspects of the indicator
1	Country does not meet indicator					
2	Country meets only a few aspects of indicator					
3	Country meets some aspects of indicator					
4	Country meets most aspects of indicator					
5	Country meets all aspects of the indicator					

Average score:

Score of previous years:

3.4

2006: n/a; 2008: n/a; 2010: n/a; 2012: n/a; 2016: 2.7

Overall Score for Sector 3:

1.9

Note: From the beginning of the discussions of sector 4, the number of panellists went down to 11 as one panellist left due to another commitment. The total number of scores from this point are therefore divided by 11.



SECTOR 4:

The media practise high levels of professional standards

4.1 The standard of reporting follows basic principles of accuracy and fairness

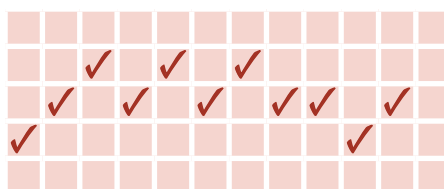
Target audiences often question the way in which journalists process information. The panel strongly emphasised that, in many cases, the line separating facts and opinions is quite thin. Biased and interesting comments take priority over facts. This situation is fuelled by the great level of disparity among journalists. Professionalism remains weak because misinformation often overwhelms fact-checked and verifiable information.

Sometimes people pass on inaccurate information and twisted facts. The proliferation of online media and news provided via social network exacerbates the trend towards misinformation. Some pages simply report information seen elsewhere, without stating sources or any fact-checking. Quality of information processing also depends on the political affiliation of the station or newspaper. Political interference in the newsrooms creates harmful interference in information processing. The panel pointed out that in order to access quality information or to get the real idea of a situation, it is necessary watch several channels, listen to several radio stations and read many newspapers. Some organisations close to the government publish information that is sympathetic to the government. Despite this, there is a growing awareness among journalists and media owners. Media professionals, especially experienced journalists, are managing to survive. There are many training opportunities and the profession is attracting more and more young people. For example, in 2012 the Friedrich-Ebert-Stiftung initiated the "Training of Young Journalists" (FDJ) and in 2019 the Group of Publishers of News Media, Multimedia in Madagascar (GEPIMM) launched its "Passport to Journalism".³¹

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

2.9

Score of previous years:

2006: 2.9; 2008: 2.5; 2010: 2; 2012: 2.8; 2016: 2.3

³¹ The GEPIMM, the association Actions Média Francophone (AMF-Africamedias) and other partners issued "My passport to journalism" in 2019. It is aimed at journalists who graduate from a recognised training curriculum.

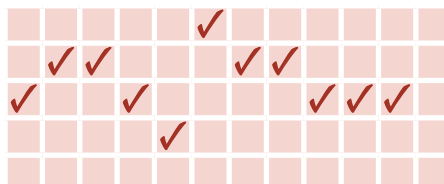
4.2 The media follow voluntary codes of professional standards, which are enforced by independent statutory bodies that deal with complaints from the public

There is no independent, non-legislative self-regulatory body per se. Rather, the OJM is enshrined in the law on media communication. Article 57 of the Communication Code mandates the OJM to guarantee the rules of ethics and deontology. Journalists' duties and obligations are stipulated in the ethical rules set out in article 58 of the Communication Code. Work on a draft code of ethics began but was not successful, neither was the introduction of the national charter for journalists as a binding instrument. The associations of journalists each have their own charter. There is no self-regulatory body dealing with public complaints. In article 59, the Communication Code provides that the OJM shall set up a disciplinary board to deal with breaches of rules, ethics and professional conduct. The OJM should handle complaints through this board, but no meeting has ever been convened thus far.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

2.5

Score of previous years:

2006: 2.3; 2008: 2.9; 2010: 1.8; 2012: 2.6; 2016: 1.8

4.3 Salary levels and general working conditions, including safety, for journalists and other media practitioners are adequate

The state and the public administration raised the level of the minimum hiring wage to ariary 200,000 (US\$54) monthly. However, some media outlets pay their journalists less, and sometimes beginners must make do with ariary 150,000 (US\$40). Broadcasting stations and media houses often do not hire qualified journalists due to economic reasons. However, the panel pointed out that a journalist who does not have the required academic level and knowledge is "a danger to society". Due to insufficient compensation, the practice of "felaka" (bribes in the form of money in envelopes to thank journalists for their services) is becoming commonplace. Although some media outlets provide their employees with decent salary and benefits including health coverage, pension and insurance,

others do not even sign an official employment contract with their employed journalists. Some journalists are victims of false declarations of salary amounts to the National Social Security Fund (CNaPS).

Scores:

Individual scores:

[illegible]

Average score:

Score of previous years:

1.6

2006: n/a; 2008: n/a; 2010: 2.2; 2012: 2.3; 2016: 1.4

4.4 Journalists and other media practitioners are organised in trade unions and/or professional associations, which effectively represent their interests

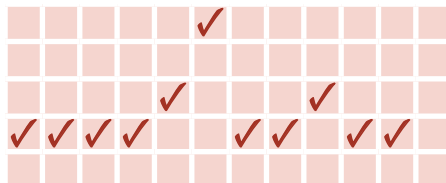
There used to be a journalists' association in the 1990s, with the Malagasy Journalists Union (SJM) active until 2016. However, panellists felt that this union had a political agenda and did not unite all journalists. This union failed to register with the Ministry of Interior and Decentralisation and therefore did not officially exist. Currently, steps have already been taken to form a new union. The general assembly has been held and procedures have been initiated at the level of the Ministry of Interior and Decentralisation.

At the same time, many professional associations are active, both in the capital and the provinces. Journalists are divided into organisational categories, for example: image reporting journalists, print media, women journalists' association, senior journalists, photo reporters' association, environmental journalists, child-friendly journalists, political reporters, the union of francophone press (UPF) and the network of investigative journalists. These professional associations actively defend the interests of their members.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

3.5

2006: 2.6; 2008: 2.1; 2010: 2.1; 2012: 1.8; 2016: 2

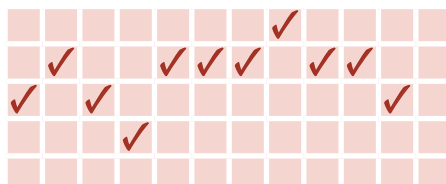
4.5 Journalists and media houses have integrity and are not corrupt

The practice of “felaka” is a serious blight on journalism. Companies, organisations and stakeholders are accustomed to giving these envelopes to journalists at each activity. The envelope is used to cover various costs, including transport. Panellists feel that a vicious circle is developing, and even fake journalists are taking advantage of the system. In a normal context, media outlets must ensure the journalists’ travel and other professional costs are paid for. In Madagascar, journalists have poor living conditions, which encourage this form of corruption. The absence of bodies, especially a journalists’ union, to conduct social dialogue and defend the rights and interests of journalists also contributes to this situation.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

Score of previous years:

2.4

2006: n/a; 2008: n/a; 2010: 1.7; 2012: 2.5; 2016: 2

4.6 Journalists and editors do not practise self-censorship in the private broadcasting and print media

Panellists feel that due to fear of reprisals, many journalists and editors practice self-censorship. For articles that deal with sensitive topics, they prefer to use conventional language. Because of this fear of backlash, most journalists simply report the facts without offering in-depth coverage. Panellists are of the opinion that sometimes media owners clearly indicate what information is to be published and which is not. The fear of losing advertisers also limits the room for manoeuvre within the media. This self-censorship practice can go as far as withholding information that would be useful to society.

Scores:

Individual scores:

1	Country does not meet indicator	✓	✓	✓								✓	✓	✓	
2	Country meets only a few aspects of indicator					✓			✓	✓					
3	Country meets some aspects of indicator														
4	Country meets most aspects of indicator				✓		✓								
5	Country meets all aspects of the indicator														

Average score:

1.8

Score of previous years:

2006: 2; 2008: 1.5; 2010: 1.5; 2012: 2.8; 2016: 2.1

4.7 Media professionals have access to training facilities offering formal qualification programmes as well as opportunities to upgrade skills

New article 54 of the Communication Code states:

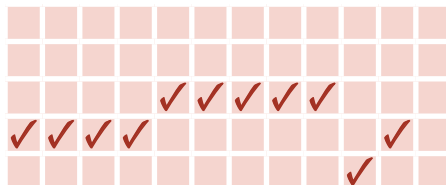
Exercising the occupation of journalist is free. However, only individuals holding a diploma, qualification certificate or certificate issued by a professional journalism training institution are entitled to a professional identity card issued by the Order of Journalists of Madagascar.

Many public and private universities offer training. The courses lead to a bachelor's or master's degree. However, the panel felt that some institutions merely teach communication which can lead to confusion. Many initiatives contribute to journalists' capacity building (such as regional associations, technical and financial partners). There is a plethora of training, but in practice, it does not significantly improve the quality of journalists' work due to lack of standards. International exchanges between professionals are also lacking.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

3.6

Score of previous years:

2006: 2.6; 2008: 3.6; 2010: 1.5; 2012: 4.3; 2016: 3.3

4.8 Equal opportunities regardless of race or ethnicity, social group, gender/sex, religion, disabilities and age are promoted in media houses

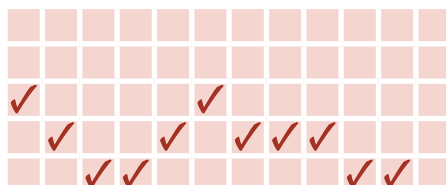
Equal opportunities without distinction of race or ethnic origin, social group, gender, sex, religion, disability, age and others are effectively promoted in the media.

All groups are represented and promoted in the media. Some media outlets have policies to receive people with disabilities. In both private and public media, ethnic and religious groups are all represented.

Scores:

Individual scores:

1	Country does not meet indicator
2	Country meets only a few aspects of indicator
3	Country meets some aspects of indicator
4	Country meets most aspects of indicator
5	Country meets all aspects of the indicator



Average score:

4.2

Score of previous years:

2006: n/a; 2008: n/a; 2010: 3.1; 2012: 4.1; 2016: 3.7

Overall Score for Sector 4:

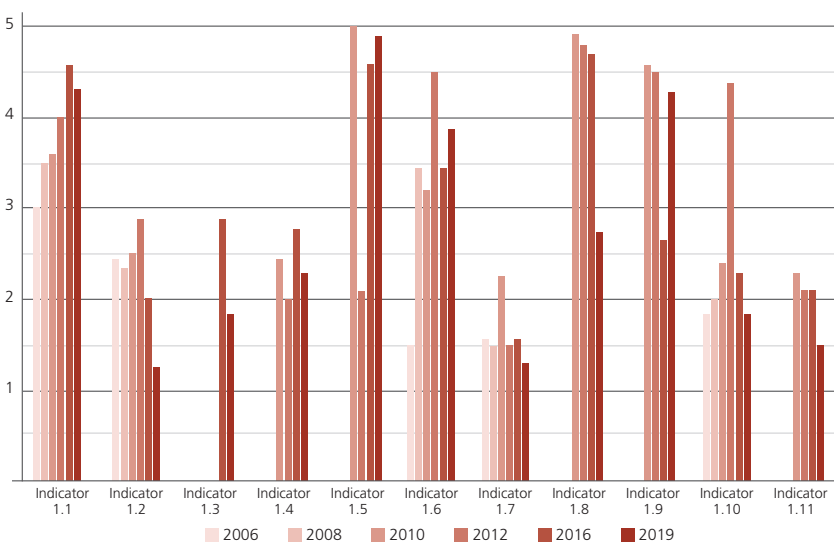
2.8



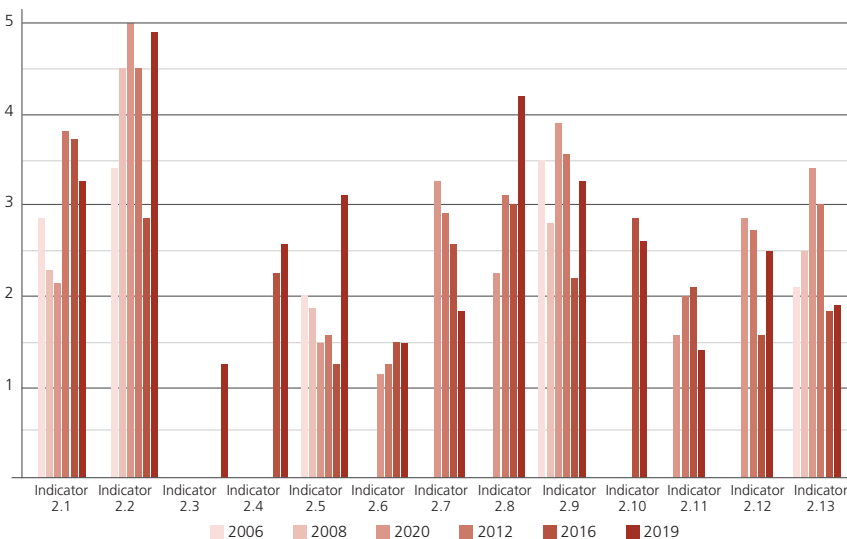
COMPARATIVE GRAPHS

SECTOR 1:

Freedom of expression, including freedom of the media, is effectively protected and promoted

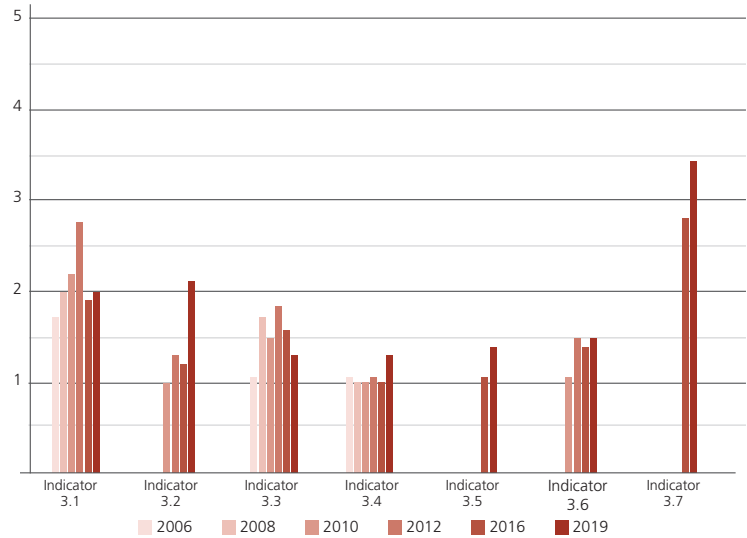
**SECTOR 2:**

The media landscape, including new media, is characterised by diversity, independence and sustainability



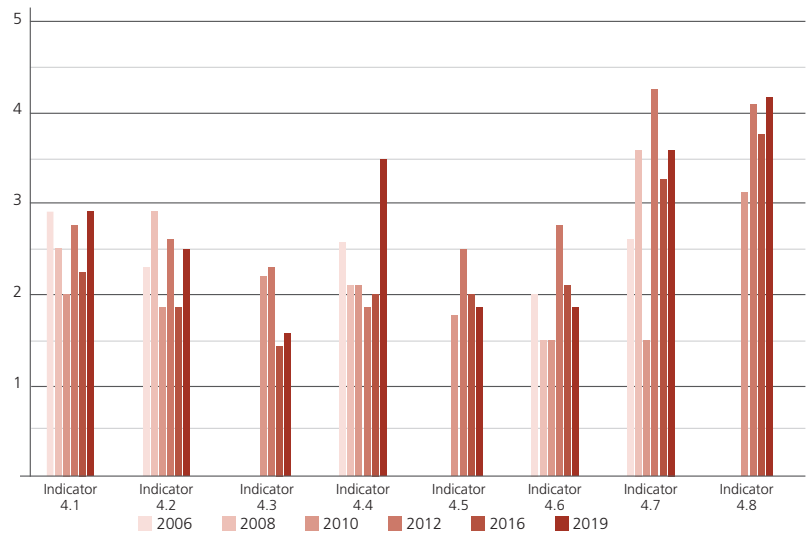
SECTOR 3:

Broadcasting regulation is transparent and independent; the State broadcaster is transformed into a truly public broadcaster

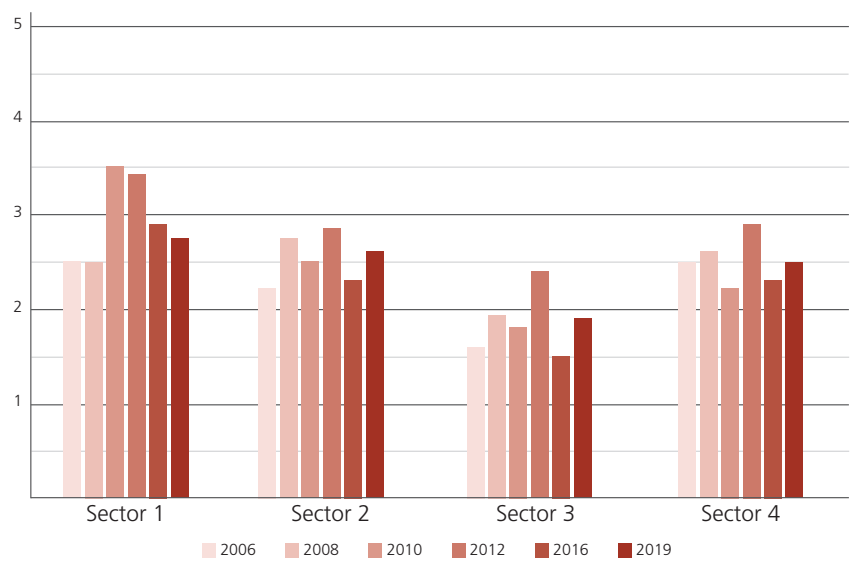


SECTOR 4:

The media practise high levels of professional standards



ALL SECTORS: COMPARING AVERAGE SCORES





THE WAY FORWARD

1. What were the developments in the media environment in the last three years?

- The Communication Code was adopted, the amendments made and the ongoing revision is positive. The new revisions partly address the requests of journalists and communication professionals. The decriminalisation of custodial sentences (new article 20) is a fundamental achievement, even if the fines are excessive.
- The Cybercrime Act was amended in 2016.
- The return in 2018 of the Malagasy Broadcasting System (MBS) press group close to former President Marc Ravalomanana, which ensures a minimum of balance in the media landscape.
- The VIVA press group of the new President of the Republic Andry Rajoelina, elected in 2018, is growing stronger. The Head of State is particularly attentive and sensitive to the media and the information being broadcast.
- The disappearance of the influential media group RLM Communication, close to former President Hery Rajaonarimampia. Its owner was arrested on 13 February 2019 and taken into police custody. A series of charges (including abuse of corporate assets, money laundering and bad cheques) have been brought against him.
- There has been an increase in programmes that promote culture in the public service.
- There are more educational programmes and the media are talking more about unions and workers' concerns.
- Faith-based media are increasingly dominant and have a growing influence.
- The pre-eminence of social media in public debates and the growth of online media are among fundamental changes in the media landscape.
- The national coverage of private stations, through DTT, opens up a choice perspective for citizens.

2. What kind of activities are needed over the next three or four years?

The panel proposed the following courses of action and reflection for the years to come:

- The launch of the 2019 AMB report.
- The establishment of a strong and consensual journalists' union that will make it possible to change the status of the media and strengthen the right to freedom of expression. Consequently, the adoption of a collective agreement through social dialogue with employers and the government may define the statutes and conditions of media practitioners.
- Establishing a platform will further strengthen collaboration between the civil society and the media.
- Passing an access to information act is vital. Action must be carried out jointly by the media, through the trade unions and by CSOs.
- Strengthening citizen education on gender issues and gender awareness to ensure equity of treatment and access to information.
- The establishment of legislation and a significant advertising public company to promote sustainable media outlets.
- The setting-up of a coherent policy on ICT.
- The establishment of the ANRCM to play its regulating role.
- The OJM must be financially and politically independent for it to fully play its role.
- The application of the Florence Agreement (for tax exemption for media materials and production factors) regardless of political affiliation.

Panellists (in chronological order of surname)

Media

1. Aniella Elisabeth Vololoniaina, Regional Head of Public Radio and Television channels
2. Harrison Ratovondrahona, journalist and trainer
3. Lova Rabary-Rakotondravony, journalist, lawyer and trainer
4. Maholy Andrianaivo, freelance journalist, and trade unionist
5. Nadia Raonimanalina Haingotiana, journalist, editor and trainer
6. NB: an anonymous panellist

Civil society

7. Barson Rakotomanga, trade unionist
8. Herman Rakotomalala, member of an organisation involved in election observation
9. Katia Mahery Rakotonirina, communication coordinator of a thematic action group on climate change
10. Rakotorova Rabetsara (Lita), president of a consumer protection association
11. Reverend Ratsimandisa Zo, pastor, university chancellor
12. Franck Rabanoson, lawyer

Rapporteur

Raoto Andriamanambe, journalist

Moderator

Gabriel Baglo, journalist

The panel met in Ambatofotsy, Madagascar on October 25 – 27, 2019