

# **Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States**

## **Bulgaria 2017**

Contractor: Project One (Centre for the Study  
of Democracy)

Author: Dimitar Markov

Reviewed by: Dr Maria Yordanova

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## 1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
1. Amendments to the Non-Profit Legal Entities Act <sup>1</sup>	C	The amendments are aimed at enhancing the freedom of association by creating a better environment for non-governmental organisations (NGOs). <sup>2</sup> The new rules envisage: (1) improved and simplified procedures for registration of non-profit entities, (2) adoption of governmental strategy for the development of civil society organisations, (3) setting up of a civil society development council, and (4) introduction of a mechanism for supporting civil society organisations with funds from the state budget. The new law will enter into force on 1 January 2018. <sup>3</sup>

<sup>1</sup> Bulgaria, Amendments to the Non-Profit Legal Entities Act (*Закон за изменение и допълнение на Закона за юридическите лица с нестопанска цел*), 20 September 2016, available at: <http://parliament.bg/bg/laws/ID/15570>.

<sup>2</sup> Bulgaria, National Assembly (*Народно събрание*) (2015), Explanatory report to the Draft Amendments to the Non-profit Legal Entities Act (*Мотиви към Законопроект на Закон за изменение и допълнение на Закона за юридическите лица с нестопанска цел*), available at: <http://parliament.bg/bills/43/502-01-83.pdf>.

<sup>3</sup> Bulgaria, Amendments to the Non-profit Legal Entities Act (*Закон за изменение и допълнение на Закона за юридическите лица с нестопанска цел*), 20 September 2016, available at: <http://parliament.bg/bg/laws/ID/15570>.

2. Countering Terrorism Act <sup>4</sup>	D	The law allows for the closure of a non-profit legal entity when there is information leading to a justified assumption that the entity is linked to the preparation, support or carrying out of terrorism. The closure is done by the court upon request by the public prosecutor. <sup>5</sup> The new rules are seen as an extreme measure not bound to any safeguards regarding the freedom of association. There are no criteria for assessing whether an assumption is justified and there are no rules guaranteeing that the measure would not be used for exerting pressure on civil society organisations. <sup>6</sup>
3. Ruling No. 1 of the Constitutional Court on Constitutional Case No. 1/2015 <sup>7</sup>	C	The Supreme Court of Cassation (SCC) ( <i>Върховен касационен съд, ВКС</i> ) asked the Constitutional Court ( <i>Конституционен съд, КС</i> )

<sup>4</sup> Bulgaria, Countering Terrorism Act (*Закон за противодействие на тероризма*), 27 December 2016, available at: [www.lex.bg/bg/laws/ldoc/2136974730](http://www.lex.bg/bg/laws/ldoc/2136974730).

<sup>5</sup> Bulgaria, Countering Terrorism Act (*Закон за противодействие на тероризма*), 27 December 2016, Art. 33 and § 8, available at: [www.lex.bg/bg/laws/ldoc/2136974730](http://www.lex.bg/bg/laws/ldoc/2136974730).

<sup>6</sup> Bulgarian Center for Not-for-Profit Law (*Български център за нестопанско право*) (2016), Statement of the Bulgarian Center for Not-for-Profit Law on the Draft Countering of Terrorism Act (*Становище на Български център за нестопанско право относно проект на Закон за противодействие на тероризма*), 14 July 2016, available at: [www.bcnl.org/bg/articles/1679-становище-на-бцнп-по-проекта-на-закон-за-противодействие-на-тероризма.html](http://www.bcnl.org/bg/articles/1679-становище-на-бцнп-по-проекта-на-закон-за-противодействие-на-тероризма.html).

<sup>7</sup> Constitutional Court of the Republic of Bulgaria (*Конституционен съд на Република България*), Ruling No. 1 on Constitutional Case No. 1/2015 (*Определение № 1 по конституционно дело № 1/2015*), 27 March 2015, available at: <http://constcourt.bg/contentframe/contentid/4468>.

		<p>to provide interpretation of the constitutional provision, according to which citizen associations cannot pursue political objectives and engage in political activity, which is in the domain of political parties.<sup>8</sup> In particular, the Constitutional Court was asked to determine what objectives and activities fall 'in the domain of political parties' and are therefore forbidden for civil society organisations. The request was justified by the need for clear guidelines for courts when registering civil society organisations. The Constitutional Court declined the request and did not provide the requested interpretation because, according to the ruling, there was no contradictory case law justifying such interpretation. However, before the ruling came out, many civil society organisations publicly expressed their concern that a potential restrictive interpretation could substantially limit the scope of activities of NGOs, particularly of those involved in assessment and/or assistance to the</p>
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<sup>8</sup> Bulgaria, Constitution of the Republic of Bulgaria (*Конституция на Република България*), 13 July 1991, Art. 19, Para. (2), available at: [www.parliament.bg/en/const](http://www.parliament.bg/en/const).

		development of public policies. <sup>9</sup>
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## **2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016**

### **2.1 Overall amount of government funding**

In Bulgaria, government funding allocated to NGOs is very limited and funding specifically dedicated to support organisations working in the area of human rights is essentially not available.

There are three main channels for the provision of government funding to NGOs

The first channel is the funding of social services. NGOs are allowed to provide social services and those that do so receive funding from the state budget. The funding corresponds to the number of service users.

The second channel is funding through direct subsidies from the state budget. This funding is available to a limited number of NGOs which are explicitly listed in the annual State Budget of the Republic of Bulgaria Act (*Закон за държавния бюджет на Република България*). These organisations include the national representative organisations of persons with disabilities, the Bulgarian Red Cross (BRC) (*Български червен кръст, БЧК*) and some cultural organisations. For 2016, the list of organisations, which received direct subsidies from the state budget, included 29 organisations.<sup>10</sup>

The third channel is the provision of funding through individual ministries. For some ministries, the annual State Budget of the Republic of Bulgaria Act (*Закон за държавния бюджет на Република България*) allocates a certain amount of funds to be provided to NGOs. The biggest share of these funds is allocated to the Ministry of Youth and Sports (*Министерство на младежта и спорта*) and is designated for the different sport federations, which according to Bulgarian legislation, are non-profit organisations. The funds allocated to the other ministries are usually linked to the implementation of specific policies or laws, for which the respective

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<sup>9</sup> For more information, see the joint statement to the Constitutional Court, signed by 30 non-governmental organisations, available at: [www.bcnl.org/bg/articles/1374-становище-до-конституционния-съд-относно-тълкуване-на-чл12-ал2-от.html](http://www.bcnl.org/bg/articles/1374-становище-до-конституционния-съд-относно-тълкуване-на-чл12-ал2-от.html).

<sup>10</sup> For the full list of organisations, see Bulgaria, State Budget of the Republic of Bulgaria for 2016 Act (*Закон за държавния бюджет на Република България за 2016 г.*), 9 December 2015, Annex 4, available at: <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=99252>.

ministry is responsible. Thus, for example, the amount allocated to the Ministry of Justice (*Министерство на правосъдието*) is designated for funding NGOs working in the areas of domestic violence and that support crime victims. The legal basis for the provision of these funds are the Protection against Domestic Violence Act (*Закон за защита от домашното насилие*) and the Assistance and Financial Compensation to Victims of Crime Act (*Закон за подпомагане и финансова компенсация на пострадали от престъпления*). Both laws have explicit provisions allowing NGOs working in these two areas to receive funding from the Ministry of Justice (*Министерство на правосъдието*).<sup>11</sup>

In general, the amount of government funding for non-profit organisations has not changed significantly since 2011 (see Table 1 below).

Table 1: Subsidies to non-profit organisations from the state budget 2011–2016 (in thousand BGN)

<b>Subsidy</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Subsidies through the Council of Ministers	3,000.0	3,000.0	3,000.0	4,000.0	4,500.0	4,500.0
Subsidies through the Ministry of Finance	-	-	-	-	2,000.0	2,000.0
Subsidies through the Ministry of Justice	-	-	-	500.0	450.0	450.0
Subsidies through the Ministry of Labour and Social Policy	270.0	270.0	270.0	270.0	270.0	270.0
Subsidies through	800.0	800.0	800.0	1,300.0	-	-

<sup>11</sup> For example, see Bulgaria, Protection against Domestic Violence Act (*Закон за защита от домашното насилие*), 29 March 2005, available at: <http://lex.bg/laws/ldoc/2135501151>. Art. 6, par. (7) of the law stipulates, that each year the Ministry of Justice (MoJ) (*Министерство на правосъдието*, МП) receives funds from the state budget for supporting projects of non-governmental organisations aimed at prevention of and protection against domestic violence, support to victims of domestic violence, training of personnel, social and psychological consultations of perpetrators, etc.

the Ministry of Education and Science						
Subsidies through the Ministry of Culture	-	-	-	600.0	600.0	600.0
Subsidies through the Ministry of Economy	70.0	70.0	70.0	70.0	70.0	70.0
Subsidies through the Ministry of Regional Development and Public Works	-	-	-	-	-	435.0
Subsidies through the Ministry of Youth and Sports	26,415.9	27,215.9	27,215.9	44,682.0	44,850.9	46,650.9
Direct subsidies	10,612.6	10,460.0	9,996.0	10,270.0	10,370.0	10,642
<b>Total</b>	<b>41,168.5</b>	<b>41,815.9</b>	<b>41,351.9</b>	<b>61,692.0</b>	<b>63,110.9</b>	<b>65,617.9</b>

Source: State Budget of the Republic of Bulgaria Acts 2011–2016

Until 2011, there was a separate budget line in the state budget for funding NGO projects in different areas of public life, including in the area of human rights. This was done on a competitive basis and all non-profit organisations registered as public benefit organisations, were allowed to apply for funding. However, this instrument was abandoned in 2012 and is no longer available. For 2011, the last year in which it was implemented, the total amount of the funding for all areas, including human rights, was BGN 750,000.<sup>12</sup>

<sup>12</sup> Bulgaria, State Budget of the Republic of Bulgaria for 2011 Act (*Закон за държавния бюджет на Република България за 2011 г.*), 17 December 2010, available at: [www.minfin.bg/bg/page/645](http://www.minfin.bg/bg/page/645).



## 2.2 Distribution of government funding

There were no significant changes in the distribution of government funding for NGOs across different types of activities between 2011 and 2016. Significant changes are expected to occur in 2018, when the new legislative amendments envisaging additional funding for NGOs will start to apply (see the section on the regulatory environment above).

## 2.3 Restrictions (or other changes) on NGO funding from other sources

In 2015, the Bulgarian Centre for Not-for-Profit Law (*Български център за нестопанско право*) published a report on the main restrictions and obstacles hampering the access of NGOs to funding from the operational programmes co-financed by the EU structural funds. Among the main restrictions identified by the report are: requirements for presenting bank guarantees or other collateral, higher requirements for previous experience of financial capacity, complexity of application procedures (including complex application forms and large number of additional documents to be presented), lack of training for applicants, etc. The report also described several restrictions affecting the successful implementation of awarded projects, such as delayed payments to beneficiaries, no flexibility for modification of project activities and deadlines, etc.<sup>13</sup>

Another important restriction limiting the access of NGOs to funding from other sources are the rules on state aid and *de minimis* aid. In Bulgaria, non-profit legal entities are not explicitly excluded from the scope of application of these rules, even if they are not engaged in economic activity. As a result, different practices have occurred and some institutions consider non-profit organisations, which have reached the threshold of € 200,000 during the last three years, as ineligible for receiving funding. The issues has been discussed on a number of occasions, including with the European Commission, but the problem has not been solved yet.<sup>14</sup>

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<sup>13</sup> Bulgarian Center for Not-for-Profit Law (*Български център за нестопанско право*) (2016), Report on the problems of non-governmental organisations to access and work with funding from the operational programmes (*Доклад за проблемите на неправителствените организации при достъпа и работата с финансиране по оперативните програми*), Sofia, Bulgarian Center for Not-for-Profit Law (*Български център за нестопанско право*), available at: [http://bcnl.org/uploadfiles/documents/analyses/analiz\\_ngoop\\_final1.pdf](http://bcnl.org/uploadfiles/documents/analyses/analiz_ngoop_final1.pdf).

<sup>14</sup> For more information about the different practices and the communication between the Bulgarian government and the European Commission, see Bulgarian Center for Not-for-Profit Law (*Български център за нестопанско право*) (2014), Analysis of the regulations and practices for the application of state aid rules and *de minimis* aid rules in Bulgaria and in other EU Member States (*Анализ на регламентацията и практиките за прилагане на правилата за държавни помощи и за минимални помощи (de minimis) в България и в други страни членки на ЕС*), Sofia, Bulgarian Center for Not-for-Profit Law (*Български център за нестопанско право*), available at: [www.bcnl.org/uploadfiles/documents/analyses/analiz3.pdf](http://www.bcnl.org/uploadfiles/documents/analyses/analiz3.pdf).

### 3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
Amendments to the Normative Acts Act	Bulgaria, Amendments to the Normative Acts Act ( <i>Закон за изменение и допълнение на Закона за нормативните актове</i> ), 3 May 2016, <a href="http://parliament.bg/bg/laws/ID/15534">http://parliament.bg/bg/laws/ID/15534</a>	The amendments made public consultations a mandatory requirement in the process of drafting new laws and regulations. Public institutions were also obliged to publish reports on the public consultation process on their websites and the public consultation portal ( <a href="http://www.strategy.bg">www.strategy.bg</a> ). Reports must include information about all the proposals, which have been received, and justification of the rejected ones. <sup>15</sup> As a piece of legislation, the amendments are subject to subsequent impact assessment, which must be done five years after their adoption. <sup>16</sup>
Third National Action Plan in the Framework of the Open Government	Bulgaria, Council of Ministers ( <i>Министерски съвет</i> ), Decision No. 570 of the Council of	The action plan has a separate section on civic participation, which includes the following measures

<sup>15</sup> Bulgaria, Amendments to the Normative Acts Act (*Закон за изменение и допълнение на Закона за нормативните актове*), 3 May 2016, available at: <http://parliament.bg/bg/laws/ID/15534>.

<sup>16</sup> Bulgaria, Amendments to the Normative Acts Act (*Закон за изменение и допълнение на Закона за нормативните актове*), 3 May 2016, Art. 22, available at: <http://parliament.bg/bg/laws/ID/15534>.

<p>Partnership: 1 July 2016 – 30 June 2018</p>	<p>Ministers of 11 July 2016 for the adoption of Third National Action Plan in the Framework of the Open Government Partnership: 1 July 2016 – 30 June 2018 (<i>Решение № 570 на Министерския съвет от 11 юли 2016 г. за приемане на Трети национален план за действие в рамките на инициативата „Партньорство за открито управление“ 1 юли 2016 – 30 юни 2018</i>), 11 July 2016, <a href="http://www.strategy.bg/Articles/View.aspx?lang=bg-BG&amp;categoryId=&amp;Id=24&amp;y=&amp;m=&amp;d=">www.strategy.bg/Articles/View.aspx?lang=bg-BG&amp;categoryId=&amp;Id=24&amp;y=&amp;m=&amp;d=</a></p>	<p>aimed to improve the access of NGOs to the decision-making process: improvement of the functionalities of the public consultation portal (<a href="http://www.strategy.bg">www.strategy.bg</a>), elaboration of unified standards for the election of members of public and consultative councils, elaboration of guidelines for public officials on how to provide feedback to citizens and NGOs in the course of public consultations, update of the Strategy for Supporting the Development of Civil Society Organisations (<i>Стратегия за подкрепа развитието на гражданските организации</i>), and adoption of new action plan and designation of a new responsible institution for the implementation of the updated strategy.<sup>17</sup> The evaluation of all action plans are done following the self-assessment procedures of the</p>
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<sup>17</sup> Bulgaria, Amendments to the Normative Acts Act (*Закон за изменение и допълнение на Закона за нормативните актове*), 3 May 2016, available at: <http://parliament.bg/bg/laws/ID/15534>.

		Open Government Partnership. <sup>18</sup>
National Coordination Mechanism on Human Rights	Bulgaria, Council of Ministers ( <i>Министерски съвет</i> ), Decision No. 796 of the Council of Ministers of 19 December 2013 for the establishment of a National Coordination Mechanism on Human Rights ( <i>Решение № 796 на Министерския съвет от 19 декември 2013 г. за създаване на Национален координационен механизъм по правата на човека</i> ), 19 December 2013	The National Coordination Mechanism on Human Rights (NCMHR) ( <i>Национален координационен механизъм по правата на човека</i> , НКМПЧ) consists of ministers and chairpersons of other public bodies. Its tasks are to coordinate the implementation of Bulgaria's obligations under international human rights treaties, to discuss legislative changes related to human rights and to propose measures for improving the protection of human rights. The council is chaired by the Minister of Foreign Affairs and meets once every six months. <sup>19</sup> Representatives of human rights NGOs are regularly invited to participate in the council's meetings. <sup>20</sup> There is no specific

<sup>18</sup> For the self-assessment reports on the previous two action plans, see the section on Bulgaria of the website of the Open Government Partnership, available at:

[www.opengovpartnership.org/country/bulgaria/assessment](http://www.opengovpartnership.org/country/bulgaria/assessment).

<sup>19</sup> Bulgaria, Council of Ministers (*Министерски съвет*), Decision No. 796 of the Council of Ministers of 19 December 2013 for the establishment of National Coordination Mechanism on Human Rights (*Решение № 796 на Министерския съвет от 19 декември 2013 г. за създаване на Национален координационен механизъм по правата на човека*), 19 December 2013.

<sup>20</sup> For more information, see the press release about the first meeting of the NCMHR at the website of the Ministry of Foreign Affairs, available at:

[www.mfa.bg/en/events/6/1/1454/index.html](http://www.mfa.bg/en/events/6/1/1454/index.html).

		monitoring and evaluation procedure envisaged for the NCMHR. However, the Minister of Foreign Affairs is obliged to present to the government annual reports on the operation of the NCMHR. <sup>21</sup>
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#### 4 Further information

Bulgaria is among the countries included in the CSO Sustainability Index (CSOSI) for Central and Eastern Europe and Eurasia, published each year by the United States Agency for International Development (USAID). According to the latest edition of CSOSI, released in 2016, the Bulgaria received a score of 3.3 on a scale from 1 (most developed) to 7 (most challenged). Under the individual components of the index the country obtained highest scores for legal environment (2.5) and advocacy (2.7), followed by service provision (3.1), infrastructure (3.1), public image (3.4), organisational capacity (4.1) and financial viability (4.3).<sup>22</sup>

The Bulgarian Centre for Not-for-Profit Law (BCNL) (*Български център за нестопанско право*, БЦНП) published several reports on the legal framework, access to funding and advocacy activities of NGOs in Bulgaria. The reports review the drivers and barriers of the operation of NGOs in the country and offer recommendations for improving the existing environment. Among the main barriers identified by the reports are the lack of sufficient and sustainable funding, the low level of trust on the part of public authorities in the experience and expertise of NGOs, the insufficient capacity of NGOs on legal and financial issues, etc. In terms of drivers, the reports refer to the ongoing reforms of the legal procedures for the registration of NGOs, the adoption of strategic documents aimed at

<sup>21</sup> Bulgaria, Council of Ministers (*Министерски съвет*), Decision No. 796 of the Council of Ministers of 19 December 2013 for the establishment of a National Coordination Mechanism on Human Rights (*Решение № 796 на Министерския съвет от 19 декември 2013 г. за създаване на Национален координационен механизъм по правата на човека*), 19 December 2013. Art. 5.

<sup>22</sup> For more information about the advances and setbacks in each area, see United States Agency for International Development (2016), *The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, Washington D.C., United States Agency for International Development, pp. 64–72, available at: [www.usaid.gov/sites/default/files/documents/1861/Europe\\_Eurasia\\_CSOSIReport\\_2015\\_Update8-29-16.pdf](http://www.usaid.gov/sites/default/files/documents/1861/Europe_Eurasia_CSOSIReport_2015_Update8-29-16.pdf).

encouraging the development of such organisations and the improved access of NGOs to the policy-making process.<sup>23</sup>

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<sup>23</sup> For more information, see the website of the Bulgarian Center for Not-for-Profit Law (*Български център за нестопанско право*), available at: [www.bcnl.org](http://www.bcnl.org).