



Civic Space Report 2024

BULGARIA



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Key trends

- 🔍 Foreign Agents Registration Act, similar to Russia's NGO law, promoted by far-right parties.
- 🔍 Restrictions on the right to protest for those showing solidarity with Palestine and for LGBTQI people.
- 🔍 The newly established Council for the Development of the Civil Society barely operational in 2023.

Summary

Civic space is rated as narrowed¹⁶⁸ in Bulgaria. There were no recommendations on civic space in the EU Commission's Rule of Law report 2023¹⁶⁹, although it noted concerns around a foreign agents law in 2023, the far-right Revival party resubmitted a Foreign Agents bill.

There were several concerning developments related to peaceful assembly, including, use of excessive force against protesters and banning of protests in particular against those expressing solidarity with Palestinian people. Civil society faced smear campaigns and Strategic Lawsuits against Public Participation (SLAPPs). LGBTIQ+ and women's rights groups were especially targeted by attacks, usually carried out by far-right groups.

While the registration process of civil society organisations became easier, civic actors did not have adequate access to policy-making processes as the newly established Council for Civil Society Development was barely operational in 2023. Insufficient state funding resulted in civil society' dependence on EU and private funding, however the sector struggled to access EU funding.

¹⁶⁸ <https://monitor.civicus.org/country/bulgaria/>

¹⁶⁹ https://commission.europa.eu/system/files/2023-07/10_1_52568_coun_chap_bulgaria_en.pdf

Institutional, political and socio-economic landscape

In April 2023, Bulgaria had its fourth parliamentary election in a span of two years. Regrettably, these elections once again failed to yield a decisive majority. Consequently, an intense negotiation process ensued, culminating in the formation of a regular government. Interestingly, the prime minister and deputy prime minister positions were allocated to candidates from the runner-up and the winner of the election, respectively. Instead of forming a coalition in the traditional sense, the two parties opted for an unprecedented approach – a rotational arrangement for the roles of prime minister and deputy prime minister every nine months without a coalition agreement. As a result, Bulgaria found itself lacking a clear parliamentary majority, rendering every political or legislative decision subject to intricate, case-by-case negotiations. Additionally, in September 2023 regular local elections were held which resulted in a shift in power in some major cities including the capital, Sofia.

The ongoing parliamentary and political crisis has had a notable impact on the operational capacity of key institutions responsible for upholding the rule of law. The Constitutional Court is facing challenges as it has been awaiting the appointment of two new members from its Parliamentary quota since the end of 2021. The Supreme Judicial Council and institutions such as the Data Protection Commission, the head of the National Audit Office and others are functioning with expired mandates.¹⁷⁰ The highly controversial position of the Prosecutor General is also held by a temporarily appointed deputy after the premature termination of Ivan Geshev's mandate by the Supreme Judicial Council for "undermining the prestige of the judiciary" in mid-2023.¹⁷¹ Additionally, the director of the Public TV Broadcast is also acting outside of his mandate after a failed attempt to elect a new director in 2022.

Despite the complicated political situation in the last days of 2023 the Parliament managed to pass major constitutional amendments diluting presidential powers and reducing the power of the

¹⁷⁰ See more: <https://btvnovinite.bg/bulgaria/16-darzhavni-organa-sa-s-iztekal-mandat.html>

¹⁷¹ See more: <https://www.rferl.org/a/bulgaria-prosecutor-geshev-fired-analysis-judicial-independence/32466120.html>

Prosecutor General, meeting a long-standing demand of the EU.¹⁷² However, the constitutional reform remains to be reviewed by the Constitutional Court.

Civic freedoms: regulatory environment and implementation

Freedom of association

The Non-profit Legal Persons Act of 2000 regulates the establishment and operation of civil society organisations in Bulgaria. The act sets a relatively simple procedure for the registration of NGOs with limited powers of the administration (previously the court) to refuse registration based on the goals and means of achieving those goals. However, since the introduction of COVID-19 measures in 2020 it became clear that the Bulgarian legislation is outdated and does not provide proper guarantees for the legality of online assemblies of civil society organisations' governing bodies. Thus, a bill proposing the introduction of clear rules on participation in online assemblies of the supreme bodies of civil society organisations was proposed during the short-lived 47th and 48th Parliament in 2022 but in both cases the bill did not reach the voting stage of the legislative procedure. The same bill was once more proposed by a bipartisan group of MPs in the current 49th Parliament in June 2023.¹⁷³ However, by the end of 2023, the bill has not been discussed in any of the parliamentary commissions assigned to do so, and the legislative procedure remains in a stalemate.

A positive trend was observed with the administrative procedure for registration of newly established civil society organisations. According to information provided by the State Registration Agency the

¹⁷² <https://www.euractiv.com/section/politics/news/bulgarian-mps-dilute-presidential-powers-in-bid-to-boost-schengen-bid/>

¹⁷³ Bill available here: <https://www.parliament.bg/bg/bills/ID/164248>

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number of registration refusals is decreasing – e.g. in 2021, there were 1,379 newly registered civil society organisations, while refusals for initial registration were 1,055, in contrast in 2022 there were 1,586 new registrations and only 608 refusals.¹⁷⁴ On the other hand, the number of active civil society organisations is declining as only 13 847 annual financial and/or narrative reports were submitted to the State Registration Agency in 2022 in contrast to 15 501 in 2021.¹⁷⁵

However, the shrinking civic space trend remains unaddressed by the authorities. Notably, the Council for the Development of Civil Society (CDCS), a body composed of CSOs elected directly by other CSOs and chaired by a Deputy Prime Minister with competences set in the Non-profit Legal Persons Act, was barely operational in 2023. In June, the newly formed government was unable to make the symbolic decision to appoint its single Deputy Prime Minister to chair the CDCS for months. This provoked an open letter from the civil society members of the CDCS,¹⁷⁶ published in October 2023. However, the letter was ignored until 13th December when the Deputy Prime Minister was finally formally appointed as chair of the CDCS. As a result, the CDCS had only one meeting at the very end of 2023 after the formation of the current government. This delayed the development of new public funding opportunities as well as the process of drafting a Strategy to Support the Development of Civil Society Organisations- a competence of the CDCS.

Another concern was the adoption of the new Counter-Corruption Act which obliged members of the governing bodies of Chitalishta (traditional Bulgarian associations which serve as community centres) to declare their private interests and publish them on the website of the entity. Additionally, some CSOs providing social services with public money were contacted by authorities to submit private interest declarations under the same law without any clear guidelines or interpretation about why they are obliged to do so.

On the other hand, in 2023 the first Terrorist Financing Risk Assessment for the Non-Profit Sector in Bulgaria¹⁷⁷ was adopted and found that there are no known cases of abuse of non-profit organisations for the purpose of terrorist financing. It concluded that the risk for the non-profit sector is low to medium.¹⁷⁸ Consequently, the Anti-Money Laundering (AML) Act was amended excluding certain categories of NPOs from the scope of the law in line with the definition for NPOs provided by the Financial Action Task Force. Additionally, after the amendments obliged under the AML Act, NPOs with annual turnover exceeding 50,000 BGN (approximately €25,000) have the additional obligation

¹⁷⁴ Data provided to BCNL by the State Registration Agency. Data for 2023 would be available in 2024.

¹⁷⁵ *Ibid.*

¹⁷⁶ <https://bcnl.org/news/otvoreno-pismo-ot-yuridicheskite-litsa-s-nestopanska-tsel-chlenove-na-saveta-za-razvitie-na-grazhdanskoto-obeshtstvo.html>

¹⁷⁷ More information: <https://bcnl.org/en/news/there-are-no-serious-risk-factors-for-npos-to-be-used-to-finance-terrorism-according-to-the-adopted-sectoral-risk-assessment.html>

¹⁷⁸ The Risk Assessment is confidential. The summary of the results is available here: https://www.dans.bg/images/stories/FID/NOR/RA_NPO/Summary_ranpo_bg.pdf

to carry out internal risk assessment as the previous threshold was a mere 20,000 BGN (approximately €10,000).¹⁷⁹

In 2023, civil society in Bulgaria remained targeted by smear campaigns led by politicians. Most notably these attacks come from the ever-growing in popularity Eurosceptic, far-right and pro-Russian party "Revival" (Vazrajdane) which improved its electoral popularity from 2.45 per cent¹⁸⁰ in April 2021 to 14,16 per cent in April 2023¹⁸¹, making it the third largest political party in the current Parliament. The "Revival" Party has been promoting the idea for the adoption of a Foreign Agents Registration Act since 2015¹⁸² and used this as a tool to attack civil society and the media. In 2022 it also submitted a Foreign Agents Registration Bill to the Parliament.¹⁸³

In brief, the Bill:

- 🔍 Defines all legal entities and individuals who have received **funds over BGN 1,000 during one tax year** from abroad, except for funds received under commercial transactions and gambling, as foreign agents.
- 🔍 Defines "**individuals associated with foreign agents**" as "the founders, directors, participants or employees of organisations designated as foreign agents" , i.e. anyone with a connection to a particular civil society organisation (not just employees, but also members, donors, and volunteers).
- 🔍 Introduces the establishment of a *de facto* **blacklist of foreign agents** maintained by the Ministry of Justice (a concept well known from the Hungarian Transparency Act declared contrary to EU law and the similar proposal of VMRO to amend the Non-Profit Legal Entities Act in 2020) and sanctions if the relevant persons, according to the vague definitions in the draft law, fail to declare their inclusion in it. The condition for a person to be removed from this list is that one does not receive funding from abroad for a period of five years.
- 🔍 Introduces the obligation for any "foreign-assisted entity" to **indicate that it is a "foreign agent"** on printed and other publications, photographs, address cards, print samples, engravings, etc. (the list of forms of expression to which the rule applies is long and is contained in Article 12 of the Bill)
- 🔍 Introduces several **prohibitions on foreign agents and their affiliates** from exercising activities in public spaces, such as schools, kindergartens, The Bulgarian Academy of Science, as well as

¹⁷⁹ **More about the amendments of the AML Act:** <https://bcnl.org/en/news/ngos-and-measures-against-money-laundering-and-terrorist-financing-changes-in-the-law-and-first-risk-assessment-for-the-sector.html>

¹⁸⁰ <https://results.cik.bg/pi2021/rezultati/index.html>

¹⁸¹ <https://results.cik.bg/ns2023/rezultati/index.html>

¹⁸² **More information:** <https://bcnl.org/en/news/proposal-to-adopt-a-foreign-agents-registration-act-in-bulgaria-when-a-legislative-initiative-is-used-for-political-propaganda-and-an-attack-on-civil-rights.htm> |

¹⁸³ <https://www.parliament.bg/bg/bills/ID/164424>

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restrictions on political rights and access to state funding and participation in public procurement procedures. One of the many internal contradictions in the Bill is that under Art. 11, para. 3 prohibits foreign agents from "engaging in political activities," and Article 7, para. 2. (3) requires them to file "a detailed declaration of any activity of a political nature that the declarant is carrying out or intends to carry out"¹⁸⁴

The same Bill has been submitted once more by "Revival" in April 2023¹⁸⁵ shortly after the Parliamentary elections showcasing the continuous efforts of the party to gain popularity by labelling the civic sector and media as "foreign spies."

Bulgarian CSOs, particularly those dedicated to safeguarding the rights of children, women, and victims of gender-based violence, found themselves subjected to a malicious smear campaign during parliamentary debates on the proposed amendments to the Domestic Violence Prevention Act in July and August 2023. Amidst the much-anticipated legislative reforms aimed at combating domestic violence, members of the "Revival" party and two other parliamentary factions positioning themselves as opposition seized the moment to launch an offensive against civil society organisations.

Their attacks insinuated that these organisations lacked transparency, had no rightful place within the domestic violence prevention system, and were unsuitable for providing social services. Additionally, the unfounded claim that civil society exerted control over politicians was perpetuated during this period.¹⁸⁶

Freedom of peaceful assembly

Legislation regarding freedom of peaceful assembly in Bulgaria is in line with international standards.¹⁸⁷ The law does not require permission from the authorities for a protest or assembly to take place in public and does not introduce other unreasonable restrictive conditions. Furthermore, the rules and regulations for policing protests were improved in recent years. For instance, after lengthy anti-government protests in 2021 new rules were introduced to ensure that police officers'

¹⁸⁴ <https://bcnl.org/en/news/proposal-to-adopt-a-foreign-agents-registration-act-in-bulgaria-when-a-legislative-initiative-is-used-for-political-propaganda-and-an-attack-on-civil-rights.html>

¹⁸⁵ <https://www.parliament.bg/bg/bills/ID/164765>

¹⁸⁶ Quotes available here:

https://bcnl.org/uploadfiles/documents/%D0%97%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D0%B5%D0%BD%20%D0%B8%20%D0%BA%D0%BE%D0%BC%D1%83%D0%BD%D0%B8%D0%BA%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B5%D0%BD%20%D0%BD%D0%B0%D1%80%D0%B0%D1%82%D0%B8%D0%B2_%D0%94%D0%9C_%D0%91%D0%A6%D0%9D%D0%9F_2023.pdf

¹⁸⁷ See: General comment No. 37 (2020) on the right of peaceful assembly (article 21)

personal identification numbers are visible. Despite this, in 2023, Bulgarian authorities did not fully respect the right to protest and serious violations including police violence, intimidation and discrimination took place.¹⁸⁸

Most notably, the Bulgarian police forcefully dispersed a major non-political protest on November 16 in Sofia.¹⁸⁹ Under circumstances which remain unclear due to conflicting information about violence between participants in the protest, the police decided to use a water cannon (not a common practice) and to violently disperse the protest. Dozens were arrested and injured. Amongst the victims of the police brutality were at least nine journalists some of whom were streaming live while attacked.¹⁹⁰ Many of the videos taken during the protest showed indiscriminate police violence used by law enforcement officers wearing anti-riot armour without the obligatory personal identification which make recognising them difficult.

In the aftermath of the protest, authorities undertook some steps to respond to the police brutality and violence by starting an investigation and instituting disciplinary measures against at least 10 officers.¹⁹¹ However, both the Ministry of Interior (MoI) and the Mayor of Sofia were quick to accuse the person who submitted the notification for the protest for the mayhem. The mayor announced¹⁹² publicly via social media that the municipality will seek reparations for the damages from the “organiser” of the protest, disregarding the international human rights standards which states that an organiser of a protest might be held accountable only for their own unlawful conduct, including the incitement of others. If, in exceptional circumstances, organisers are held accountable for damage or injuries for which they were not directly responsible, it must be confined to cases in which evidence shows that the organisers could reasonably have foreseen and prevented the damage or injuries.¹⁹³ Similarly, the representatives of the MoI stated the name and area of residence of the organiser during a live broadcasted ad-hoc parliamentary hearing claiming that he failed to disclose that the protest would not be peaceful.¹⁹⁴ The actions of both institutions were not addressed appropriately and thus could have a detrimental effect on public trust and enjoyment of the freedom of peaceful assembly.

¹⁸⁸ **More information:** https://bcnl.org/news/zashtita-na-pravoto-na-protest-v-sofiya.html#_ftn12

¹⁸⁹ <https://www.rferl.org/a/bulgaria-football-federation-mikhailov-demonstration-hungary/32687951.html>

¹⁹⁰ <https://aej-bulgaria.org/%d0%b0%d0%b5%d0%b6-%d0%b1%d1%8a%d0%bb%d0%b3%d0%b0%d1%80%d0%b8%d1%8f-%d1%81%d1%8a%d0%b1%d0%b8%d1%80%d0%b0-%d0%b4%d0%b0%d0%bd%d0%bd%d0%b8-%d0%b7%d0%b0-%d0%bf%d0%be%d0%bb%d0%b8%d1%86%d0%b5%d0%b9%d1%81/>

¹⁹¹ <https://www.mediapool.bg/distsiplinarni-proizvodstva-sreshtu-oshte-7-politsai-zanasilie-na-protesta-na-futbolnite-fenove-news353689.html>

¹⁹² <https://www.facebook.com/VassilTerzievZaSofia/posts/pfbid0rr3wWCqkyF4a9hNcuSfWAR49fHoSicD2wrgA7RFvKCK4vzfNdT28nPnSWL7fFqCal>

¹⁹³ **Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21)*, p. 65, 17.9.2020**

¹⁹⁴ **Recording of the hearing:** <https://www.parliament.bg/bg/parliamentarycommittees/3209>

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On November 13, a transgender woman was subject to harassment and detention while protesting in front of the Court House in Sofia after a refusal of the court to legally change her gender and issue her with new identification documents. Following the court decision in question, a third party notified the municipality that the woman, Mrs. Bankova, planned to protest “on the stairs” of the Court. Although the protest was peaceful without any accidents, on November 16 the municipality issued a fine to the person who submitted the notification for the protest because a tent was placed in front of the stairs instead of on the stairs, the spot allocated in the notification. A few hours later the police apprehended Mrs Bankova after she was unable to show her ID. According to Mrs. Bankova, she was kept at the police station for a few hours during which she was subjected to degrading treatment, including being stripped naked and inspected by a male police officer to “identify her.”¹⁹⁵ After her release, she continued her protest peacefully and was arrested yet again for failing to produce identification on November 21 and once more harassed. There is no available information about any actions taken by the authorities in connection with these incidents.

Between October and November 2023, Sofia Municipality issued at least five bans¹⁹⁶ on peaceful demonstrations organised by the Palestinian people. This is significant compared to the four bans issued by the municipality between January 2020 to April 2023.¹⁹⁷ The bans were issued due to alleged possibility of hate speech at the demonstrations, the potential for the messages of the demonstration to provoke dissent, and that other events were taking place in the city at the same time. The justifications by the Municipality were in contradiction of both the domestic law as well as the international standards and thus the municipality should have resorted to less intrusive measures than a ban.

Freedom of expression

According to the Reporters Without Borders’ (RSF) Index, media freedom in Bulgaria has been in constant decline since 2006 (when the country was ranked 36th).¹⁹⁸ In 2021¹⁹⁹ (112th) it was ranked the lowest among all EU Member States and second lowest after Turkey in the Balkans. In 2021, however, a shift in power ensued ending a lengthy period during which the political landscape was dominated by the GERB party. Since then, the situation in Bulgaria has improved, with media freedom ranking 71st in 2023.

¹⁹⁵ <https://bcnl.org/en/news/violation-of-the-right-to-peaceful-protest-in-3-steps.html>

¹⁹⁶ Information received by BCNL from the persons who have submitted the notifications for the protests.

¹⁹⁷ <https://rsf.org/en/index?year=2006>

¹⁹⁸ <https://rsf.org/en/index?year=2006>

¹⁹⁹ <https://rsf.org/en/index?year=2021>

In several cases before the ECtHR Bulgaria has been criticised for its legislation criminalising insult or slander and in particular – for punishing insult and slander against public officials more severely.²⁰⁰ For instance, in its decision of *Bozhkov v. Bulgaria*, issued on July 19, 2011, the ECtHR explicitly explained that treating defamation of a public official as an aggravating circumstance contradicts the well-established jurisprudence of the Court: *“It should also be observed that the individuals mentioned in the article were public officials, whom the Court has found as a rule to be subject to wider limits of acceptable criticism than private individuals... However, the national courts were unable to take that into account and were instead bound to punish the applicant more severely ... because Article 148 §§ 1 (3) and 2 of the Penal Code treats the official capacity of the victim of an alleged defamation as an automatic aggravating circumstance...”*²⁰¹. This concern has been successfully addressed by amendments to the Penal Code adopted in July 2023.²⁰² With the amendments, insult or slander directed at public officials is not an aggravating circumstance anymore, the punitive fine is reduced, and the court is allowed under certain conditions to substitute the punishment for slander or insult directed at public officials with an administrative fine.

On the other hand, journalists and activists remain targeted by SLAPPs in the form of civil cases as there are no concrete procedural measures to prevent them, which leaves the legality of SLAPPs open to the court's interpretation. In 2023, a small media outlet, Mediapool, fell victim to a textbook example of a SLAPP when a civil defamation case was brought against it by the major insurance company Lev Ins.²⁰³ The alleged defamation stems from a quote in an article from 2022, which comes from an official ministerial meeting transcript. The company is claiming damages amounting to one million BGN (apx. 500 000 Euro). As of 2023, the case is still pending and the legal fees for the media outlet are covered by a fundraising campaign.

In a positive development in late 2023, the Sofia City Court dismissed a civil lawsuit against investigative journalist Dimitar Stoyanov due to abuse of rights by the plaintiff. In the reasoning of the decision the judge described the case as a SLAPP, marking the first use of the term in the Bulgarian jurisprudence.²⁰⁴

²⁰⁰ See among others **MARINOVA AND OTHERS v. BULGARIA** available here: <https://hudoc.echr.coe.int/eng?i=001-164668>; **KARZHEV v. BULGARIA** available here: <https://hudoc.echr.coe.int/eng?i=001-176816>; **Kasabova v. Bulgaria** available here: <https://hudoc.echr.coe.int/eng?i=001-104539> ;

²⁰¹ Decision available here: <https://hudoc.echr.coe.int/eng?i=001-104541>

²⁰² <https://www.parliament.bg/bg/bills/ID/164861>

²⁰³ <https://aej-bulgaria.org/levins-slapp/>

²⁰⁴ https://www.mediapool.bg/balgarskiyat-sad-prizna-za-sashtestvuvaneto-na-delata-shamari-news354901.html?fbclid=IwAR34gJhrGYhiNfm2ItI8Zr7GzIJ36_NmMI-c2GttsM2ECHIpDN0zVCUw8Mo

Safe space

After a slight improvement in 2022²⁰⁵, there was an increase in serious attacks against the LGBTIQ+ community, activists, and supporters in 2023. The most notable were the intimidating protests organised by supporters of the far-right "Revival" party against the screening of an award-winning film about LGBTIQ+ experiences.²⁰⁶ These protests were dominated by homophobic slogans falsely claiming that the movie and the LGBTIQ+ community support and promote paedophilia.

On June 10, a protest against the movie took place in the capital Sofia before a planned screening, which was part of the program of Sofia Pride Film Fest.²⁰⁷ The authorities failed to protect the freedom of peaceful assembly and expression of the people who were attending the screening by:

- 🔍 Failing to ensure sufficient police presence, despite information available on social media that a counterdemonstration was planned and information about similar events in the past²⁰⁸
- 🔍 allowing the protesters to invade the cinema and block the entrance and physically preventing the screening from taking place.
- 🔍 allowing the counter-protesters to insult and intimidate specific persons present in the cinema. Some of the harassed persons are well-known LGBTIQ+ activists.
- 🔍 allowing counter-protesters to take close-up photographs of persons present in the cinema while making defamatory and discriminatory statements towards them, thereby creating a serious risk to the safety of those involved during and after the incident.

Ultimately the screening was cancelled despite the presence of police. Just days after this incident a group of people led by a MP from the far-right "Revival" Party disrupted the screening of the same movie in the second biggest city in Bulgaria, Plovdiv. The group harassed members of the public, including staff of the cinema. Those who participated in the attack were wearing merchandise of the party, and carrying banners with the slogan "Gender Propaganda," some were also wearing the so-called Ribbon of Saint George – a symbol in support of Russian aggression against Ukraine. In this

²⁰⁵ See p. 15 - <https://civic-forum.eu/wp-content/uploads/2023/03/Civic-Space-Report-2023-BULGARIA-European-Civic-Forum.pdf>

²⁰⁶ Movie Close - <https://www.imdb.com/title/tt9660502/>

²⁰⁷ More information here: <https://bcnl.org/news/splashvaneto-pogazvaneto-na-pravoto-na-lichen-zhivot-i-ogranichavaneto-na-pravoto-na-mirni-sabraniya-ne-sa-formi-na-zashtiten-ot-zakona-protest.html>

²⁰⁸ See for example: <https://www.marginalia.bg/novini/natsionalisti-obsadiha-prozhektsiyata-na-zmiya-film-v-kojto-nyama-nishto-pedofilsko/>

instance the police managed to disperse the aggressive protest and let the screening take place.²⁰⁹ Similar protests dominated by hate speech targeting the LGBTIQ+ community also took place in the end of June in Varna – the biggest coastal city of Bulgaria, where a crowd sabotaged yet another screening of the movie in question in the absence of a proper police intervention.

On the other hand, there were some positive developments regarding the safety of the LGBTIQ+ activists and civic actors in 2023. In July, the Sofia Court of Appeals convicted former presidential candidate Boyan Ras sate of hooliganism following a 2021 attack on the LGBTIQ+ community centre Rainbow Hub and sentenced him to six months' probation.²¹⁰ In July, the Parliament adopted amendments to the Penal Code to include “perceived sexual orientation of the victim” as aggravating circumstance for multiple crimes such as homicide, bodily harm, hate speech²¹¹, kidnapping and others.²¹² These amendments were a longstanding advocacy goal of LGBTIQ+ and human rights organisations in Bulgaria.

Funding for civil society

According to the CSO Sustainability Index²¹³, the financial viability of civil society organisations in Bulgaria has been in decline since 2014 and this indicator has consistently been the lowest score compared to the others. None of the major issues regarding access to funding of CSOs were addressed in 2023, including the lack of diverse funding opportunities, development of public funding schemes, improvement of the access to funding provided by the EU and promoting the culture of donating.

²⁰⁹ <https://clubz.bg/137952>

²¹⁰ <https://www.svobodnaevropa.bg/a/boyan-rasate-lgbt/32497016.html>

²¹¹ The term “hate speech” is not official in the Bulgarian legislation, however, art. 320 of the Penal Code is considered to prohibit some forms of hate speech: art. 320 A person who, by preaching before many people, or by dissemination through the mass media or in any other similar manner openly abets to the perpetration of a crime, shall be punished by imprisonment for up to three years, but not by a more severe punishment than that provided for the crime itself.

²¹² See: **Победа за ЛГБТИ хората в България: По-тежки наказания за престъпления заради сексуалната ориентация**

²¹³ Available here: <https://csosi.org/> ; The CSO Sustainability Index was discontinued for Bulgaria in 2022

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In 2023, Bulgaria dropped significantly in the World Giving Index²¹⁴ which measures money donated to charities and volunteered time to organisations. According to the Index, Bulgaria is ranked 133rd from 142 countries, compared to 54th place amongst 119 countries in 2022. This ranking shows that the country has regressed to its pre-COVID state with regards to donations made.²¹⁵ Additionally, in 2023, the Bulgarian government launched yet another initiative to draft a law which regulates volunteering and supports organisations working with volunteers. However, since the initially announced date, on December 5, 2023, no draft law has been presented. Thus, in 2023, Bulgaria marked another year without undertaking effective policy measures to encourage the culture of donating and volunteering.

A long-standing problem in terms of access to EU funding for CSOs, remains the misinterpretation of the *de minimis* rule stipulated in Regulation (EU) 651/2014 by local authorities.²¹⁶ As noted in the 2023 Rule of Law Report of the European Commission, “it is hard for CSOs to receive EU funding (through state agencies dealing with EU funds) because they are considered as commercial entities and the state applies the same state aid restrictions as for private companies receiving EU funding.”²¹⁷

Another concern related to EU funding is that project finding of the European Commission is not based on the rules of public procurement. This means that Bulgarian CSOs do not have any advantage when offering a lower price for the same work. Additionally, the per hour reimbursement budgeted for projects is limited to country rates. This ultimately means that civil society staff get significantly less money for their work than other member states. This is deeply discriminatory and contradictory to the principles of equity.

In 2023, a new funding scheme for CSOs to develop projects to prevent domestic violence and specialised services for victims of domestic violence was adopted due to amendments to the Domestic Violence Prevention Act. The amendments entered into force in January 2024 and their implementation remains to be seen. On the other hand, the public funding scheme for civil society projects envisaged in the Non-for-Profit Legal Persons Act was not launched in 2023 even though the body responsible for it, the Council for Civil Society Development, was established in 2022. The Council for Civil Society Development had only one meeting after the April 2023 elections. The meeting took place in December, during which the administration, without adequate motivation, took a controversial position that the legal basis for the funding needs to be amended. Additionally, in 2023 CSOs advocated for a major reform of the social entrepreneurship legal framework which would

²¹⁴ https://www.cafonline.org/docs/default-source/about-us-research/wgi_report_2023_final.pdf

²¹⁵ <https://www.bcause.bg/news/news-sredata/952-bulgaria-e-s-po-nisak-reiting-spered-caf-world-giving-index-2023.html>

²¹⁶ Available here: <http://data.europa.eu/eli/reg/2014/651/oj>

²¹⁷ https://commission.europa.eu/system/files/2023-07/10_1_52568_coun_chap_bulgaria_en.pdf

enable organisations to access subsidies for entrepreneurship.²¹⁸ By the end of 2023, no amendments to the dysfunctional 2019 Companies of the Social and Solidarity Economy Act were proposed in the Parliament.

The lack of appropriate actions by the state, together with the under- developed donation culture in the country, make civil society highly dependent on EU and private funding. This jeopardises the sustainability of the sector and is instrumentalised by far-right groups for smear campaigns, including the Foreign Agents Act narrative.

Civil dialogue and the right to participation

Civic participation was notably affected after two years of political turmoil which led to disturbance in the work of many state institutions. According to the bi-yearly Civic Participation Index, Bulgaria scored lower in 2023 than in 2021 in all monitored categories – environment, practices, effect, and the overall score.²¹⁹

Key civic participation mechanisms were not functioning properly in 2023. Most notably, the Council for Civil Society Development (CCSD), whose establishment in 2022 was outlined as a positive development in the 2023 EC's Rule of Law Report²²⁰, barely functioned in 2023 after the government failed for months to appoint a deputy-prime minister to chair it after the April elections. The case of the CCSD raises serious concerns about the government's commitment to engage with civil society as the current Cabinet only has a deputy-prime minister and therefore the act of appointing her as chair of CCSD was merely formal. This led to serious delays in the work on the Strategy to Support the Development of Civil Society Organisations, which is in the competence of the CCSD and prevented the CCSD from voting on several bills.

²¹⁸ <https://bcnl.org/news/podkrepete-razvitiето-na-sotsialnoto-predpriemachestvo-v-balgariya.html>

²¹⁹ <https://index.fgu.bg/data/files/e1fa97fff17bcbf0ab0b1ac4cf511318.pdf>

²²⁰ https://commission.europa.eu/system/files/2023-07/10_1_52568_coun_chap_bulgaria_en.pdf

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Bulgaria is also falling behind with its commitments to the Open Governance Partnership initiative.²²¹ In July 2022, the previous government adopted its fourth OGP Plan (2022-2024)²²² after a lengthy delay and after being threatened with expulsion from the partnership. The Plan was drafted in collaboration with civil society and consists of 14 commitments in the field of access to information, open data, and direct democracy. All commitments are to be carried out by public institutions in close collaboration with CSOs. However, the intermediate report by the Independent Reporting Mechanism of OGP published in July 2023 concluded that there is only one commitment with “substantial potential for results” and one which is promising for modest progression.²²³ The National Council for Coordination and Monitoring of the Open Government Partnership only had one meeting at the end of 2023. On the other hand, in December 2023, the Ministry of Electronic Governance kickstarted a civil society working group to develop human rights standards on the implementation of Artificial Intelligence technologies as part of one of the OGP commitments.²²⁴

The political crisis also had a toll on the motivation of CSOs to engage in participatory mechanisms. After several short-lived parliaments in recent years, in May 2023 the Parliamentary Commission on Direct Citizen Participation and Interaction with Civil Society started a procedure to establish the Civil Council to it. However, the procedure was prolonged several times²²⁵ due to lack of civil society candidates in certain fields such as charity and volunteerism, justice, internal security, public order and defence and agriculture. The Civil Council was established in September 2023. However, by the end of the year it did not have a joint session with the Commission on Direct Citizen Participation and Interaction with Civil Society as stipulated in the rules and regulations of the Parliament.

²²¹ <https://www.opengovpartnership.org/>

²²² <https://www.strategy.bg/Articles/View.aspx?lang=bg-BG&categoryId=&Id=40&y=&m=&d=>

²²³ <https://www.strategy.bg/Articles/View.aspx?lang=bg-BG&categoryId=&Id=46&y=&m=&d=>

²²⁴ <https://bcnl.org/news/choveshkite-prava-v-osnovata-na-regulatsiyata-na-sistemite-s-izkustven-intelekt.html>

²²⁵ <https://www.parliament.bg/bg/parliamentarycommittees/3220>

Civil society resilience

In 2018, Bulgaria became the first and only country whose Constitutional Court announced that the Istanbul Convention is unconstitutional.²²⁶ According to the Court, the definition of “gender” formulated in Art. 3 of the Istanbul Convention distinguished between “biological sex” and “social sex” and thus contradicted the definition in the Bulgarian Constitution, defined as “sex binarity of the human.”²²⁷ To reach this conclusion the Court relied on two provisions of the Constitution – Art. 46. (1) Matrimony shall be a voluntary union between a man and a woman. Only civil marriage shall be legitimate; and Art. 47, item 2 Mothers shall enjoy special protection of the State, which shall guarantee them paid leave before and after confinement, free obstetrical care, relaxed conditions of work, and other types of social assistance. This decision resulted in a detrimental effect on the protection of the survivors of domestic violence and on the rights of LGBTIQ+ people.

Relying on the Constitutional Court’s decision on the Istanbul Convention, the Bulgarian Supreme Court issued an interpretative decision according to which legally changing one’s gender is not permissible. Thus, the Supreme Court reversed the practice which comes from numerous strategic litigation cases over several years according to which a legal gender change is possible after examination of biological and psychological criterions.²²⁸ Additionally, in 2023, the Supreme Administrative Court dismissed the plea of a same sex family to receive a Bulgarian birth certificate for their daughter, contravening a decision of the Court of the EU from 2021.²²⁹ The so-called “Baby Sara,” however, is still considered a land-mark strategic litigation case for LGBTIQ+ rights protection as the family is expected to challenge the refusal by the Bulgarian state to issue documents to the child in the ECtHR.²³⁰

In 2023, after years of dedicated work by civil society, the public came together to demand proper state reaction to the cases of domestic violence. Mass protests²³¹ took place across the country in late July and early August after a man from Stara Zagora was charged with a “minor bodily harm” and released in June in connection with an attack against his 18-year-old girlfriend which involved

²²⁶ <https://balkaninsight.com/2021/10/27/bulgarian-courts-rejection-of-istanbul-convention-alarms-activists/>

²²⁷ <https://www.24chasa.bg/mneniya/article/6983990>

²²⁸ <https://www.ngobg.info/bg/legal/124710-%D0%B2%D0%B5%D0%BB%D0%B8%D0%BD%D0%B0-%D1%82%D0%BE%D0%B4%D0%BE%D1%80%D0%BE%D0%B2%D0%B0.html>

²²⁹ <https://www.svobodnaevropa.bg/a/32295713.html>

²³⁰ <https://www.deystvie.org/baby-sara-court-of-justice-eu>

²³¹ <https://dariknews.bg/novini/bylgariia/sled-sluchaia-debora-vtori-nacionalen-protest-sreshtu-nasilieto-snimkivideo-2355691>

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numerous cuts made with a model knife treated with more than 400 stitches. The public outcry triggered a swift legislative change to include “intimate relations” in the Domestic Violence Prevention Law, weeks after another set of major amendments including measures envisaged by the otherwise “unconstitutional” Istanbul Convention. The systematic amendments to Domestic Violence Prevention Law which entered into force in January 2024 included the establishment of a Coordination Anti-Domestic Violence Council made up of state representatives and CSOs; rules on data collection; financial support for services and campaigns and other measures.²³² This was seen as a major advocacy success. In March 2023, the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to Bulgaria to review the implementation of the long-standing CPT recommendations on the situation of persons deprived of their liberty in psychiatric institutions and social care homes.²³³ As the appalling conditions for people with psychiatric issues and the inhumane treatment which they receive can no longer be ignored by authorities and the public, civil society took the opportunity to pressure decision-makers to take action. As a result, in July, the Minister of Health revealed after a question by an MP, that there were 2,691 recorded cases of immobilisation measures undertaken in the Bulgarian psychiatric institutions and 330 deaths nearly all of which are due to heart failure. Additionally, in October, a person tied to his bed and locked up died during a fire in a psychiatric clinic in Lovech.²³⁴ With the participation of civil society, this led to the creation of a temporary parliamentary commission to protect the rights of mental health patients and draft legislative changes to guarantee them.²³⁵

²³² <https://bcnl.org/news/kakvo-novo-v-zakona-za-domashnoto-nasilie-i-kak-da-integrirame-obshtestvenata-energiya-za-promyana-po-temata.html>

²³³ <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-cpt-carries-out-a-visit-to-bulgaria>

²³⁴ <https://bntnews.bg/news/zavarzan-i-zaklyuchen-pacientat-pochinal-pri-pozhara-v-psihiatriyata-v-lovech-bil-v-izolatora-1251482news.html>

²³⁵ <https://www.parliament.bg/bg/parliamentarycommittees/3247>

Recommendations

Targeted recommendation:

- 🔍 Take urgent steps to ensure the regular and effective work of the Council for the Development of Civil Society (CDCS)
- 🔍 Resolve the legality issue of the online participation of members of the supreme collective bodies of civil society either by passing the bill of amendments already filed in the Parliament or by adopting internal policies of the administrative bodies concerned for them to implement a broader interpretation of the term “present at an assembly.”
- 🔍 Refrain from applying the same anti-corruption measures for public officials to representatives of civil society organisations receiving public funding.
- 🔍 Adopt the Civil Society Support Strategy and commit to increased civic dialogue in policy-making processes and support for civil society.
- 🔍 Adopt procedural safeguards to prevent and protect journalists and civic actors from SLAPPs.
- 🔍 Provide training to police officers and authorities on how to properly and effectively protect the freedom of peaceful assembly, in line with international standards.
- 🔍 Immediately stop the discriminatory and disproportionate bans of peace demonstrations organised by the Palestinian community.
- 🔍 Urgently implement protection measures and fully investigate the attacks against the LGBTIQ+ community and activists in the light of the amendments to the Penal Code including motives driven by the sexual orientation of the victim as an aggravating circumstance.

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- 🔍 Revise the implementation practices of the de minimus rule in a manner which does not discriminate against civil society when EU funding is distributed.
- 🔍 Adopt the law on volunteering.

About the author

The Bulgarian Center for Not-for-Profit Law (BCNL) is a public-benefit foundation that provides support for the drafting and implementation of legislation and policies aiming to advance civil society, civic participation, and good governance in Bulgaria. BCNL has participated in the development and discussion of a number of laws related to the activities of non-profit organisations, such as the Law on Non-Profit Legal Entities, the Social Assistance Act, the Law on Normative Acts, and many others.