



Annual Civic Space Report - 2022

Bulgaria

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January 2023



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Summary

Key developments:

- ✎ Foreign Agents Registration Bill, similar to Russia's NGO law, is filed in Parliament
- ✎ CSOs and volunteers at the forefront of solidarity with Ukraine, but those supporting migrants from Africa and the Middle East face smear campaigns and prosecution
- ✎ Council for the Development of the Civil Society is finally created after years of stalls, but its work is irregular

Since early 2021 Bulgaria has been in an ever-deepening political crisis leading to a deadlock negatively affecting the rule of law and any possibility of progress on human rights protection. Russia's war in Ukraine also dominated Bulgaria's public debate deepening the societal divisions, which have benefited far-rights parties. In 2022, Bulgaria also faced the biggest influx of migrants in the country's recent history due to Russia's war in Ukraine. CSOs and volunteers were at the forefront of the solidarity response, despite the lack of public financial support, proving the importance of civil society in times of crisis. On the other hand, migrants from Africa and the Middle East still face severe discrimination, while rights defenders and journalists involved in investigations of those violations and support are targeted by smear campaigns and prosecution.

Civic space is narrowed¹. While freedom of association and assembly are protected by law, issues of implementation persist. In 2022, the most significant attack against freedom of association, expression and media as well as against civic space in Bulgaria was the Foreign Agents Registration Bill, filed in the Parliament by a group of MPs from the far-right Revival Party. The Bill would impose on so-called foreign agents and the natural persons and legal entities related to them several prohibitions including restrictions on political rights and access to state funding. Bulgaria still needs to fully protect the LGBT+ community and ensure a safe space for its organisations and public participation. With regards to the right to participation, the Council for the Development of the Civil Society to the Council of Ministers was finally created following unlawful delay of two years. The Council played a key role in coordinating solidarity with Ukrainians, but its functioning remains irregular.

¹ CIVICUS Monitor rating: <https://monitor.civicus.org/>.

Political and Social Landscape

Political deadlock affects the rule of law and human rights protection

Since early 2021, Bulgaria has had three snap elections and only one regular government, which was in power for less than seven months until June 2022. As of the end of January 2023, Bulgaria is still governed by a caretaker government. Following failed attempts to form a government, the next snap elections are expected to take place in spring 2023. This unprecedented political crisis paved the way for the caretaker governments to overstep their primary duty to organise the next parliamentary elections and to make major political and economic decisions. Additionally, those governments are appointed by the President and are not subject to control by the Parliament, which raises serious concerns for compliance with the separation of powers principle and the effectiveness of the institutional check and balances mechanisms.

Additionally, the lack of a stable government and parliament hinders the legislative process. As a result, advancing reforms for human rights protection is nearly impossible. In that regard, the European Commission has launched several infringement proceedings against Bulgaria² – for failing to transpose the “Whistleblower” Directive,³ for failing to transpose Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. Other pressing human rights issues such as improving the legal and institutional protection of victims of violence against women and domestic violence,⁴ are also being postponed.

Russia’s war in Ukraine intensifies societal polarisation

Russia’s war in Ukraine was the major international factor dictating the political scene in Bulgaria in 2022. The early months of the war were marked by the biggest influx of asylum seekers in Bulgaria’s post-Second World War history. More than 900 000 migrants⁵ entered the country in 2022 in contrast to the average of 30 000 entries per year in the period 2013-2017.⁶ The migration influx was met by an unprecedented mobilisation of the Bulgarian civil society with NGOs and volunteers providing information, shelter, food and other services to the arrivals from Ukraine. Additionally, a number of demonstrations were organised in support of the Ukrainian people and called for Russia to stop its war throughout the year.⁷

However, the war in Ukraine failed to unite Bulgarian society and politicians to firmly oppose the act of aggression. Illustrative of that fact are the repeated claims by the Minister of Defence Stefan

² https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&typeOfSearch=false&active_only=0&noncom=0&r_dossier=&decision_date_from=&decision_date_to=&EM=BG&title=&submit=Search

³ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, available here: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>

⁴ [Bulgaria: improve protection from violence against women and domestic violence](#)

⁵ Information up to date 16.12.2022. Available here: <https://ukraine.gov.bg/>

⁶ [Митове и легенди. Защо мигрантите се увеличават, а статистиката не вижда това](#)

⁷ [Шествие в София в подкрепа на Украйна](#)

Yanev that the war is a “limited military operation” and “military intervention”.⁸ Following his dismissal from the position, he established a new conservative political party, Bulgarian Rise, which managed to win seats in the Parliament after the elections in October 2022.

Disinformation claims such as that Bulgarians were burned alive in 2014 in Odessa, the sizable Bulgarian ethnic minority in Ukraine was attacked and discriminated by the local authorities, and that any aid to Ukraine would mean Bulgaria entering the war, flooded social media and repeated by MPs of the Bulgarian Socialist Party and the far-right Revival Party in the Parliament.⁹ Small pro-Russian demonstrations took place from the beginning of the war and grew through the year with the increase of the economic impact of the war and supported by certain CSOs¹⁰ and political stunts from the Revival Party.¹¹

The societal division on Russia’s military aggression also impacted the public debate on Bulgaria’s geo-political orientation. In early November 2022 Eurosceptic political actors and volunteers started to mobilise their efforts and call for a referendum to postpone indefinitely the adoption of the Euro planned for 2024.¹² Another major setback in Bulgaria’s full integration to the EU came later in the year when, in December Austria and the Netherlands, vetoed Bulgaria’s accession to the Schengen zone, reinforcing the narrative adopted by the far-right that Bulgaria is controlled by the major EU countries rather than being their partner.

The division in society is also reflected in the perception of the general public of the CSOs. A survey shows that approval of NGOs among Bulgarians grew from 22,9% in 2018 to 34,6% in 2022, while the disapproval also increased – from 26,5% in 2018 and a mere 17,7% in 2020 to 32,1% in 2022.¹³

Far-right forces gain ground

The political deadlock, societal polarisation and socio-economic impact of Russia’s war led the way for Eurosceptic, far-right and more recently - pro-Russian narratives to gain traction. In line with this trend, the nationalistic political party Revival increased its results from 2.45% in the elections in April 2021¹⁴ to 10.18% in the October 2022 snap elections¹⁵ making it the fourth political power in the country. Analysis shows that the Revival Party has completely dominated the social media presence in the months preceding the October 2022 elections compared to other political parties.¹⁶ The party stance is characterised by opposition to COVID-19 measures, the adoption of the Euro and providing military support to Ukraine. The Revival Party is also actively engaged in smear

⁸ ["Ужасно неадекватно". Защо името на Стефан Янев вече върви заедно с думата "оставка"](#)

⁹ [Politicheck: "Вкарват ни във война", "запалени българи в Одеса" и още неверни твърдения от парламентарната трибуна](#)

¹² [Пускат подписка за референдум срещу въвеждане на еврото](#)

¹³ [ОБЩЕСТВЕНИ НАГЛАСИ КЪМ ДЕЙНОСТТА НА ГРАЖДАНСКИТЕ ОРГАНИЗАЦИИ](#), see also: [Paradox - positive attitudes towards CSOs are increasing, but the influence of negative suggestions, propaganda and fake news is also growing.](#)

¹⁴ <https://results.cik.bg/pi2021/rezultati/index.html>

¹⁵ <https://results.cik.bg/ns2022/rezultati/index.html>

¹⁶ with 37% of all interactions on Facebook, the most popular platform in Bulgaria, connected to Bulgarian political parties or politicians shown to be connected to Revival. See [Кампанията във Facebook: Партия "Възраждане" и всички останали](#)

campaigns against CSOs¹⁷ including by proposing a Foreign Agents Registration Act¹⁸ similar to the oppressive Russian “foreign agents” legislation.¹⁹

The regulatory environment for and implementation of civic freedoms

Freedom of association

The 2000 Non-profit Legal Persons Act regulates the establishment and operation of NGOs 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. Steps towards further improvement of the legislation were undertaken in 2022. A Bill proposing the introduction of clear rules on participation in online assemblies of the supreme bodies of the NGOs was filed by multi-partisan group of MPs in the Parliament in November 2022.²⁰ Despite the support by both state actors and NGOs, the Bill is likely not to be passed before the new snap elections.

While the general legislation on the registration and operation of NGOs remains in line with international standards, there are still issues concerning its implementation which need to be addressed. The information provided by the State Registration Agency shows that the number of registration refusals remains high – e.g. the newly registered NGOs in 2021 were 1379 and the issued refusals for initial registration were 1055.²¹ This means that the state authorities need to step in and improve the accessibility of the administrative procedures in the State Registration Agency, including by carrying out awareness campaigns for the correct implementation of the applicable rules and regulations.

On the other hand, the increasingly popular non-formal groups, meaning forms of associations who have not been officially established as legal persons, remain “invisible” for the legal order in Bulgaria.²² This puts at risk nonformalised initiatives and groups, gathering mainly online, when fundraising *ad hoc* as their members might be sanctioned by the tax authorities. Certain legal recognition of nonformal groups should be considered and adopted to regulate those *de facto* existing social relations and provide the needed legal certainty.

¹⁷ ["ВЪЗРАЖДАНЕ" СЪС СИГНАЛ ДО ПРОКУРАТУРАТА ЗА КОРУПЦИОННАТА ДЕЙНОСТ НА ФОНДАЦИЯ "АМЕРИКА ЗА БЪЛГАРИЯ"](#)

¹⁸ [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](#)

¹⁹ [Russia: New Restrictions for 'Foreign Agents'](#)

²⁰ Bill available here: <https://www.parliament.bg/bg/bills/ID/164482>

²¹ Data provided to BCNL by the State Registration Agency. Data for 2022 would be available in 2023.

²² With the exception of nonformal youth groups who enjoy limited legal recognition for the purposes of carrying out projects in the scope of the national youth programs. See DIRECTIVE No. 1 of 10.06.2022 on the conditions and procedures for funding projects under national youth programmes issued by the Minister for Youth and Sport, available here: <https://www.lex.bg/bg/mobile/ldoc/2137223812>

Anti-money laundering/terrorist financing (AML/TF) legislation overburdens the sector

A major issue of the legal framework concerning NGOs remains the anti-money laundering/terrorist financing (AML/TF) legislation. Despite the advocacy efforts of the CSOs sector²³, the current AML/TF legislation still does not fully comply with the international standards set by FATF regarding the nonprofit organisations:

- ⑩ All NGOs in Bulgaria are subjected to extensive obligations, including collecting information about their donors and beneficiaries. This approach is not risk based as the [conclusions of the National Risk Assessment published in 2019](#)²⁴ show medium risk of the CSO sector linked to religious organisations that are excluded from the scope of the law.
- ⑩ The NGOs with a relatively modest annual turnover of BGN 20 000 (roughly USD 10 700) or more and those NGOs who consider that there is a risk for their activities to be abused for the purposes of TF have additional administrative duties – they are obliged to carry out a risk assessment and to adopt internal rules. In many cases this is an unjustified administrative burden diverting resources from the main activities of already small organisations.

In 2022, the first Sectoral Risk Assessment of the NGO Sector in connection to AML/TF was started by the Bulgarian supervisory authority. The Assessment is carried out with the assistance of NGOs²⁵ and the results are expected to be published in early 2023.

The AML/TF measures also affect the access of NGOs to bank services. There is a tendency amongst banks in Bulgaria to require excessive information²⁶ (i.e. submitting donations contracts, submitting copies of personal documents of members of their supreme governing body, etc.) and forms not tailored to the CSOs sector's specifics (i.e. shareholders information, obligatory information about the economic activities of the legal entity etc.) in order to conduct a background check of an NGO using or wishing to use the services of a bank. Some banks also demand a fee for reviewing the application and conducting a background check for opening an account of an NGOs which often do not take into account the legal specificities of these entities and are not proportional to the amount of funds which need be deposited to the account. Results of the background checks are not shared with the concerned party and there are no adequate mechanisms set up for challenging decisions of the banks to deny service, block or close an existing account.

Freedom of assembly

The Bulgarian legislation ensures the enjoyment of the freedom of assembly and protest in line with international standards.²⁷ 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

²³ See e.g. [74 organizations supported a statement on the project of the Measures against Money Laundering Act \(MAMLA\)](#).

²⁴ Conclusions of the National Risk Assessment available here: https://dans.bg/images/stories/FID/NOR/Riskovi_sabitiya.pdf

²⁵ BCNL is part of the working group on the Sectoral Risk Assessment

²⁶ BCNL was informed with more than 30 such cases

²⁷ See: [General comment No. 37 \(2020\) on the right of peaceful assembly \(article 21\)](#)

conditions. No major incidents connected to police violence were reported in 2022. Nonetheless, there are still some cases of abuse of power by the authorities and misleading practices.

- ✎ In February 2022, three minors were arrested while attempting to write "Save Ukraine" on the Soviet Army Monument in Sofia as a form of protest against Russia's aggression against Ukraine.²⁸ The authorities, however, condemned the arrest and one policeperson was fired.²⁹ In May 2022, the Bulgarian court also ruled the arrest to be unlawful confirming the existing jurisprudence of the ECtHR on similar cases against Bulgaria, namely – Handzhiyski v. Bulgaria (decision from 06.07.2021)³⁰ and Genov and Sarbinska v. Bulgaria (decision issued on 28.02.2022).³¹
- ✎ In December 2022, the mayor of Sofia ordered the dispersion of a relatively small demonstration which was openly supporting the authoritarian regime in Russia. The actions of the mayor were clearly motivated by pressure from the public and not lawfully justified reasons as the demonstration – although spreading an unacceptable message for many – was peaceful.³²
- ✎ There are also indications that some municipalities do not fully accommodate the right to peaceful protest. For example, during the process of notifying authorities of an ecological protest taking place in November 2022 near a small rural town, a CSO received on multiple occasions misleading information by the administration of the local municipality requiring, in breach of the law, the organisers to seek a permission for a short road blockade from the State Road Agency and to inform themselves the Ministry of Interior for the upcoming protest.³³

Freedom of expression

In 2022 Bulgaria had a significant improvement of its ranking in the RSF's World Press Freedom Index leaping from 112th to 91st place. However, this improvement was attributed mainly to the change of power in the country³⁴ and not to legislative changes or any particular policy undertaken by the authorities. Bulgaria remains the second lowest EU country in the index following Greece.

According to Art. 148 of the Bulgarian Penal Code, when insult or slander is directed at a public official during or in connection with the fulfilment of his/her duties or function, the penalty for insult is increased to a fine of BGN 3,000 to BGN 10,000 and the punishment for slander is increased to a fine of BGN 5,000 to BGN 15,000. Public censure may also be ordered. This provision of the Penal Code is commonly instrumentalised for SLAPPs against journalist despite several

²⁸ Трима младежи са били арестувани при опит да напишат Save Ukraine на "Съветската армия"

²⁹ Един полицай е уволнен заради ареста на деца, протестирали със "Save Ukraine"

³⁰ Judgment available here: <https://hudoc.echr.coe.int/eng?i=001-209033>

³¹ Judgment available here: <https://hudoc.echr.coe.int/eng?i=001-213520>

³² Йорданка Фандъкова прекрати шествие в подкрепа на Русия в столицата

³³ Information obtained by BCNL in the scope of a legal consultation provided to the CSO.

³⁴ Europe - [Central Asia Polarisation to the west, war & propaganda to the east](#)

decisions of the ECtHR against Bulgaria.³⁵ For instance, in the case *Kasabova v. Bulgaria* (decision issued 19.07.2011)³⁶ the ECtHR held that a criminal defamation conviction, which resulted in a journalist being required to pay, in fines and damages, the equivalent of thirty-five times her monthly salary violated the right to freedom of expression. In its decision on the case *Bozhkov v. Bulgaria*, issued 19.07.2011, the ECtHR also explicitly explains that treating the 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..."*³⁷.

In 2022, the Ministry of Justice proposed a Bill to amend the Penal Code in light of the ECtHR's decisions by abolishing the official capacity of the victim of an alleged defamation as an aggravating circumstance and significantly decreasing the size of the fines for defamation and insult. By the end of 2022, the Bill passed the first of two voting procedures in the Parliament.³⁸

In 2022, there were multiple instances of politicians blatantly disrespecting journalists and the principles of freedom of media and expression.

- ✎ In January 2022, an MP from We Continue the Change Party – the biggest party in the ruling majority at that time, proposed during a parliamentary commission the introduction of criminal liability for journalists arguing that this is necessary due to the high amount of fake news in the media.³⁹ The proposition was not further discussed in the Parliament.
- ✎ In March the then Minister of Interior Boyko Rashkov harassed a journalist during a briefing and demanded her to leave.⁴⁰
- ✎ The leader of the Revival Party also harassed journalists on multiple occasions in 2022. In October he refused to start an open to the public press conference until representatives of certain media outlets left. He justified his decision by stating: *"Our morals, principles and values do not allow us to communicate with such yellow-brown sewers of the American embassy."*⁴¹ In December he also announced on his Facebook page that he was collecting nominations from the public for journalists who were worthy of the "awards" in the following categories "Grantmaker of the Year" and "Servant of the Year" as well as for media outlets in the category "Comprehensive Contribution to National Treason"⁴² provoking his nearly 300 000 followers to actively participate in a smear campaign.

³⁵ 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>

³⁶ Decision available here: <https://hudoc.echr.coe.int/eng?i=001-104539>

³⁷ & 44, Decision available here: <https://hudoc.echr.coe.int/eng?i=001-104541>

³⁸ Bill available here: <https://www.parliament.bg/bg/bills/ID/164367>

³⁹ Statement by Antonia Dimitrova, the record of the parliamentary commission available here: <https://www.parliament.bg/bg/parliamentarycommittees/2966/steno/6518>

⁴⁰ [НА ЖИВО: Бойко Рашков с опит да изгони Ива Николова от преконференцията си](#)

⁴¹ [Костадинов се разгневи на журналисти, изгони ги от преконференцията и сам си тръгна](#)

⁴² See here: <https://www.facebook.com/kostadin.eu/posts/pfbid026pCYREKxnUcAyVdxtLzRUXYnuvihxoShPmzw4sFPgq9uLCESkPhMQYsDAq4yX1al>

The freedom of media is also threatened by SLAPPs⁴³ and pressure from different governmental or regulatory bodies. For instance, the Data Protection Commission pressured a journalist to disclose her sources⁴⁴ and, later in the year, information was revealed that the same journalist was also questioned about her sources this time from the Ministry of Interior.⁴⁵ Another unacceptable interference was observed in December when a member of the Council of Electronic Media – the media regulatory authority, published a post on social media mocking and undermining the work of a journalist as well as the NGOs she is affiliated to⁴⁶ because of the journalist's participation in an international investigation consortium which exposed severe human rights violations against migrants on the Bulgaria-Turkish border.⁴⁷

Another serious concern for the freedom of expression and access to information is the non-transparent content moderation practices of social media platforms. For examples, Facebook often blocks the advertisement of posts by official Facebook pages of NGOs which the platform arbitrary deems as political.⁴⁸ As the process to contest such content moderation decisions is slow and unclear, this effectively prevents many NGOs to disseminate information on their activities and events before a wider audience. Tensions with the use of Facebook in Bulgaria – the most popular social media platform in the country, also rose in 2022 when an investigative website found that a branch of a major international company provides services to Meta in connection to the content moderation of Facebook.⁴⁹ The website claimed that the company moderates the Bulgarian Facebook content in a manner favourable to the Russian propaganda banning the profiles of journalists commenting the war in Ukraine and criticising Putin. The claims made by the investigative journalists seem to be unfounded and not properly backed by proves, however, neither the branch of the international company nor Meta provided any adequate information to address the raised concerns about transparency of the content moderation processes. Meanwhile, the Bulgarian authorities fail to establish any mechanisms to regulate the services provided by big companies such as Meta in the country.

Foreign Agents Registration Bill attacks freedom of association, expression and media

In 2022, the most significant attack against freedom of association, expression and media as well as against civic space in Bulgaria was the Foreign Agents Registration Bill.⁵⁰ The Bill was filed in the Parliament on the 27th of October 2022 by a group of MPs from the far-right Revival Party and provoked an immediate reaction from international organisation and the Bulgarian CSOs sector. In November, the European Centre for Press and Media Freedom (ECPMF), the European Federation of Journalists (EFJ), the International Press Institute (IPI) and OBC Transeuropa (OBCT) issued a joined statement against the Bill⁵¹ and in December 180 Bulgarian CSOs signed a joined

⁴³ See: [Осъдителното решение срещу журналисти и Медиапул показва дълбок порок в българската съдебна система](#); and [АЕЖ призовава депутата Лъчезар Иванов и адвокат Менко Менков да оттеглят жалбите си срещу автори от BIRD.bg](#)

⁴⁴ [ГДБОП и КЗЛД не трябва да се опитват да разкриват журналистически източници](#)

⁴⁵ [Продължава недопустимият натиск на властта за разкриване на източниците на журналистическо разследване](#)

⁴⁶ [АЕЖ настоява за оставка на Соня Момчилова от председателския пост в СЕМ](#)

⁴⁷ [Des vidéos attestent d'un tir à balle réelle sur un réfugié, à la frontière entre la Bulgarie et la Turquie](#)

⁴⁸ Experience of BCNL with its Facebook page and information shared by other NGOs.

⁴⁹ See: [Случаят с BIRD и Telus: Модерацията във Facebook е счупена, но моля, без линкове](#)

⁵⁰ Foreign Agents Registration Bill available here: <https://www.parliament.bg/bg/bills/ID/164424>

⁵¹ Available here: [Bulgarian far-right party's 'foreign agent' bill sparks media freedom concerns](#)

statement in protest of the Bill which was sent to the relevant Bulgarian authorities as well as to the EU institutions and the Council of Europe.⁵²

The Bill, as submitted, is filled with internal contradictions and vague definitions that allow for a number of hypotheses that could negatively affect not only civil organisations and media outlets, but also every Bulgarian citizen.

In brief, the Bill:

- ⑩ Defines a foreign agent as "that natural person or legal entity, civil association or political party which receives money or other material benefits from foreign sources. The same shall be domestic entities with foreign financial assistance" (§1, .2 of the Bill). At the same time, according to Art. 1 in conjunction with Art. 6 of the Bill, all legal entities, or natural persons, except religious organisations, sports clubs and the types of commercial companies explicitly listed in Art. 3, para. 2, which have received funds exceeding BGN 1,000, material benefits estimated to be at least BGN 1,000 or covering the costs of participation in "trainings, seminars and educational courses and programs, social activities or projects of the equivalent of at least BGN 1,000 in a fiscal year" from "foreign governments or foreign state-owned enterprises, foreign natural persons, foreign companies, foreign foundations, not-for-profit organisations, foreign civil societies and other unifications of people" excluding funds received from commercial transactions, gambling or from the European Union.
- ⑩ Defines "legal persons associated with foreign agents" as "the founders, directors, participants, or employees of organisations defined as foreign agents", which means virtually anyone who has a connection to a particular civic organisation (not only employees, but also members, donors, and volunteers).
- ⑩ Creates a de facto blacklist of foreign agents, maintained by the Ministry of Justice and introduces sanctions if the persons concerned, in accordance to the vague definitions in the Bill, fail to declare their inclusion in it. The condition for a person to be removed from this list is not to receive funding from abroad for a period of 5 years.
- ⑩ Introduces an obligation for every "foreign-assisted entity" to indicate that it is a "foreign agent" on printed publications and other publications as well as on 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). It is also envisaged that foreign agents would be subject to a mandatory annual financial audit, and it is not clear how this could be carried out in respect of natural persons deemed to be a foreign agent.
- ⑩ Provides several prohibitions on foreign agents and the natural persons and legal entities related to them for implementing activities in schools, kindergartens, the Bulgarian Academy of Science, etc., as well as 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

⁵² Available here: [180 civil society organizations said NO to the law on foreign agents](#)

"engaging in political activities," and Article 7, para. 2, item 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."⁵³

The Bill resembles the Russian foreign agent legislation and is promoted in a similar manner. It is well established fact that the Russian foreign agent legislation is used to repress civic actors, journalists and human rights defenders.⁵⁴ The legislation is also deemed to contradict international standards by comprehensive analyses carried out by the Venice Commission.⁵⁵ The European Court of Justice has also ruled that measures introduced by the Hungarian Transparency Law similar to (although less restrictive than) the Russian legislation are in contradiction to the EU *acquis* and fundamental rights.⁵⁶

Therefore, given the severe breaches of the Bulgarian Constitution and International Treaties to which Bulgaria is a party, it is highly unlikely for the Foreign Agents Registration Bill to be adopted. Nevertheless, the Bill itself has a deteriorating effect on the civic space in Bulgaria by reinforcing a smear campaign against the CSO sector and media and introducing on a parliamentary level the stigmatising term "foreign agent."

Given the anti-democratic nature of the Foreign Agents Registration Bill it needs to be condemned by wide range of high-ranking officials and institutions both in Bulgaria and on an international level. So far only two major political parties in Bulgaria have expressed a clear public position against the Bill,⁵⁷ whilst most of the political actors in the country have made sure that the repressive narrative built around it enjoys the comfort of the spiral of silence.

Safe space

Homophobic hate crimes remain unaddressed by legislation

In 2020 and 2021 Bulgaria was the scene of numerous attacks on LGBT+ organisations, activists and members or perceived members of the LGBTI community.⁵⁸ This negative trend seems to have been mitigated in 2022 as reports of such severe violations are lacking. Nonetheless, Bulgaria is still failing to fully protect the LGBT+ community and ensure safe space for its organisations and public participation. A major issue remains the lack of adequate prosecution of hate crimes. In 2022 the court sanctioned Boyan Rasate, presidential candidate of a small far-right party in 2021, to pay a BGN 3,000 (1,500 EURO) fine for breaking into an LGBTI community centre Rainbow Hub in 2021, during which he vandalised the facility and assaulted an activist.⁵⁹ Rasate was cleared of charges of assault and the court failed to recognise his homophobic motives as aggravating

⁵³ See also: [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](#)

⁵⁴ See: <https://www.amnestyusa.org/press-releases/russias-foreign-agents-law-is-shutting-down-prominent-ngos/>

⁵⁵ See Opinion No. 1014 / 2020 available here: [https://venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)027-e](https://venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)027-e)

⁵⁶ Judgment on Case C-78/18, available here: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=227569&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=5849357>

⁵⁷ [Две партии засега се обявиха против проекта на "Възраждане" за чуждестранните агенти](#)

⁵⁸ [POLITICAL TURBULANCES AFFECTS CIVIC SPACE](#)

⁵⁹ [Bulgaria: Presidential candidate must be investigated and held accountable after attack on LGBTI centre](#)

circumstances.⁶⁰ This shortcoming of the Bulgarian legislation and jurisprudence was found to be a human rights violation by the ECtHR in its 2022 decision on the case *Stoyanova v. Bulgaria*⁶¹ stating that: *"Bulgaria had to ensure that violent attacks (in particular, those resulting in the victim's death) motivated by hostility towards the victim's actual or presumed sexual orientation were in some way treated as aggravated in criminal-law terms, in full compliance with the requirement that criminal law was not to be construed extensively to the detriment of the accused."*

In late 2022, Bulgaria undertook some steps to amend its legislation to address hate crimes by including homophobic motives as aggravating circumstances of certain crimes. Two Bills containing identical amendments in that regard were filed in Parliament – one filed by MPs and one filed by the Council of Ministers. The Bills propose an extensive reform introducing a mechanism for holding the Prosecutor General accountable. The Bills are pending in the Parliament with no prospects to be adopted due to the expected snap elections in 2023.⁶² Another step towards resolving this issue was undertaken by the Prosecution Office by organising an international "Stop Hate Speech" conference, which brought together for the first time NGOs, LGBT+ activists, representatives of the major religious denominations and high ranking officials to discuss hate crimes and hate speech. During the conference and in media appearances afterwards the Prosecutor General spoke for the first time publicly and openly about the need to address crimes motivated by homophobia.⁶³

Solidarity with Ukrainian refugees is praised, with non-European migrants criminalised

In 2022, Bulgarian CSOs and volunteers have been praised for their capacity to self-organise in response to the influx of asylum seekers from Ukraine, next to local businesses and some local authorities. Hundreds of support initiatives have been quickly developed, offering humanitarian help, free housing, psychological support, job opportunities and much more.⁶⁴ Authorities were also open to actively collaborate with CSOs and support and reinforce the wave of solidarity. A government-run online platform, ukraine.gov.bg, was quickly set up providing information for the Ukrainian asylum seekers, including regarding services and initiatives provided by NGOs. The Civil Society Development Council to the Council of Ministers was also included in the coordination efforts of the government with the NGOs on the ground.⁶⁵ Despite of the joint efforts, state funding was allocated only to the hotels providing shelter for the refugees while the CSOs and volunteers providing crucial services were not supported financially.

On the other hand, the response to the influx of Ukrainian asylum seekers clearly demonstrated the systematic discrimination and double standard⁶⁶ faced by refugees coming from Africa and the Middle East. In contrast to the people coming from Ukraine, they cannot enter Bulgaria regularly without a visa and are usually deprived of freedom upon arrival by being forcefully put in detention

⁶⁰ [Съдът оправда Расате по обвинението, че е ударил момиче в ЛГБТ център](#)

⁶¹ Available here: <https://hudoc.echr.coe.int/fre?i=002-13685>

⁶² Bills available here: <https://www.parliament.bg/bg/bills/ID/164590> and <https://www.parliament.bg/bg/bills/ID/164330>

⁶³ ["НА ЖИВО": Международна конференция „STOP HATE SPEECH“, събитие на Прокуратурата на Република България](#)
⁶⁴ https://ec.europa.eu/migrant-integration/news/bulgaria-takes-first-steps-welcome-those-fleeing-ukraine_en

⁶⁵ Information available here: https://www.facebook.com/permalink.php?story_fbid=pfbid0onqAUumZPup8Ur9jiwC6FtSdfYayACoqKKyJimU1tEksQ9uyRNRoX7ivFcKaefFul&id=100079732634358

⁶⁶ [ДВОЙНИ СТАНДАРТИ ОТНОСНО КРИЗАТА В УКРАИНА: ПРОМЕНИ ЛИ СЕ РЕАКЦИЯТА НА ЕВРОПА КЪМ БЕЖАНЦИТЕ?](#)

centres⁶⁷. In addition, they are often victims of human smuggling and trafficking, illegal pushbacks⁶⁸, violence and inhuman treatment⁶⁹ perpetrated by the border authorities and prosecution for illegal border crossing⁷⁰ despite the lack of opportunity to apply for international protection at the state border. This discriminatory attitude of the authorities to the refugees coming through Türkiye was also clearly demonstrated by the then Prime Minister Kiril Petkov in his statement from February 2022:

“These are not the refugees we are used to. As the Austrian chancellor said, these are our relatives, family. These are Europeans, intelligent, educated people, some of them are programmers. We, like everyone else, are ready to welcome them. This is not the usual refugee wave of people with an unclear past. None of the European countries is worried about them.”

The double standard set for refugees based on their origin also reflected on CSOs and activists - authorities sought collaboration with the NGOs working with Ukrainian asylum seekers and prosecuted those organisations working on the Bulgarian-Turkish border who helped primarily refugees from Africa and the Middle East. A notable case is the ongoing investigation of three NGOs for migrant smuggling from Türkiye. The investigation started after a complaint filed by the State Agency for Refugees. Multiple staff members, members of the management and other affiliated people to the work of the organisations were questioned by the State Agency for National Security.⁷¹

Additionally, the negative perception of the migrants arriving through Türkiye by the public was reinforced by a couple of incidents involving smuggling attempts which occurred throughout 2022, two of them resulting in the deaths of police personnel.⁷² To capitalise on the public opinion two political parties – GERB⁷³ and Revival⁷⁴, failed in the Parliament identical Bills to amend the crime of human smuggling in the Penal Code. The Bills propose to reform the existing legal definition of the crime of human smuggling by removing the specific purpose of obtaining a financial or other material benefit for oneself or another. The adoption of such amendments would be a clear diversion from the internationally recognised definition of human smuggling as set in the Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime (2000) and would have a chilling effect on NGOs and volunteers working with refugees as they will be under threat of criminal prosecution.

⁶⁷ БЕЖАНЦИТЕ ЗАСЛУЖАВАТ ЗАКРИЛА, НЕ ЗАТВОР

⁶⁸ Bulgaria: Migrants Brutally Pushed Back at Turkish Border

⁶⁹ Investigation exposes 'cage-like' migrant detention sites in Eastern Europe

⁷⁰ 81 чужденци са осъдени в Кюстендил от 1 януари за незаконно преминаване на границата

⁷¹ Държавната агенция за бежанците обвини Фондация „Мисия Криле“ в съпричастие с каналджийство

⁷² See: [Two police officers dead after migrant bus ploughs through roadblock](#) and [Bulgarian policeman shot dead patrolling Turkish border for migrants](#)

⁷³ Bill available here: <https://www.parliament.bg/bg/bills/ID/164514>

⁷⁴ Bill available here: <https://www.parliament.bg/bg/bills/ID/164509>

The right to participation and dialogue between the civic sector and governing bodies

Positive developments advance civil dialogue but more efforts are still needed

Despite the political crisis, 2022 was marked by two important developments advancing the civic dialogue and civic participation of CSOs in Bulgaria.

In February 2022, the Council for the Development of the Civil Society (CDCS) to the Council of Ministers was finally created. The CDCS is a body comprised of NGOs elected directly by other NGOs and chaired by a Deputy Prime Minister with competences set in the Non-profit Legal Persons Act. These competences are primarily connected with the development of the civic sector in Bulgaria. The CDCS is an important and unique participatory mechanism for Bulgaria thanks to its democratic mechanism for electing the members, its decision-making powers (which go beyond the usual consultative functions) and the fact that it is part of the Council of Ministers administration – the highest level of the executive power branch.

Nevertheless, its creation has been delayed unlawfully and without any formal explanation by the government since 2020 when the election for the first ever CDCS was held. The undue delay of the creation of the CDCS continues to have negative impact on its functioning: there is still no website of the Council providing the needed transparency of its work and there is still no administrative secretariate allocated by the Council of Ministers to serve the needs of the CDCS. Additionally, there is no Strategy for the Development of Civil Society adopted by the Council of Ministers, for which the CDCS should adopt the execution plan.

The political and international crises also had their effect on the normal functioning of the CDCS. In the first months of Russia's war in Ukraine, the CDCS was tasked to coordinate the joint efforts of the State and civil society to respond to the refugee influx from Ukraine and, later in the year, the CDCS was not functioning for a couple of months due to change of governments. Therefore, the CDCS is still to establish itself as a well-recognised platform for dialogue between the civic sector and the executive power and to meaningfully contribute to the development of the civic space.⁷⁵

In July 2022 Bulgaria also adopted its 4th National Action Plan in the scope of the Open Government Partnership Initiative (OGP).⁷⁶ The adoption of the Plan came with a four-year delay and after a decision of the Steering Committee of OGP from March 2022 to designate Bulgaria as inactive in the OGP.⁷⁷ Fortunately, after the adoption of the National Plan Bulgaria is once more an active member of OGP and can move forward with the fulfilment of the commitments made. It is important to note that all commitments taken with the National Plan are to be carried out in close partnership between different governmental bodies and NGOs. To monitor the execution of the plan, a Multistakeholder Forum was formed with the participation of both state and non-state actors.⁷⁸ The Forum held its first meeting in December 2022.

⁷⁵ Source: BCNL's observations as a member of the CDCS

⁷⁶ Available here: https://www.opengovpartnership.org/wp-content/uploads/2022/07/Bulgaria_Action-Plan_2022-2024_EN.pdf

⁷⁷ [Resolution of the OGP Steering Committee Regarding the Participation Status of Bulgaria in OGP](#)

⁷⁸ More information here: <https://www.strategy.bg/Articles/View.aspx?lang=bg-BG&categoryId=&Id=41&y=&m=&d=>

A survey amongst more than 300 Bulgarian NGOs conducted in 2022, however, shows that, according to civic organisations, the main priority for the development of the civic society is the development of effective mechanisms for civic participation.⁷⁹ This clearly showcases the need of extra efforts to be made for existing mechanisms of dialogue and consultations to be more effective and visible to the public as well as for new ones to be developed. A notable field in which the public dialogue is falling behind is the development of the digital democracy technology and processes.

The framework for civic organisations' financial viability and sustainability

The financial sustainability remains a main challenge faced by the CSOs sector in Bulgaria. According to the CSO Sustainability Index⁸⁰ the financial viability of CSOs in Bulgaria is in decline since 2014 and this indicator has been consistently the lowest score compared to the others.

According to the latest CSO Sustainability Index report on Bulgaria⁸¹ the main issue with the financial sustainability of the Bulgarian CSOs is the lack of diversification of the sources of funding. Certain important fields of work of the CSOs, namely human rights, rely nearly exclusively on few foreign donors. Meanwhile, state funding schemes for supporting democracy and rule of law work are lacking, and the existing ones are not transparent and often subject to abuse. Notable example is the National Program for the Implementation of Youth Activities under Article 10a of the Gambling Act, which is a mechanism for funding youth projects as part of the implementation of the national youth policy with a budget exceeding 5 million BGN per year.⁸² The National Program is constantly criticised by youth organisations for its procedures lacking transparency, allocation of funds to organisations with unclear history and lack of impact assessment and accountability of funded projects.⁸³

The access of Bulgarian NGOs to EU funding provided by the European Structural and Investment Funds is also limited. For years, the Bulgarian State authorities have treated any funding provided to a CSO via the EU-funding programs as state aid without the needed analysis required by Regulation (EU) 651/2014.⁸⁴ This means that all EU funding received by Bulgarian CSOs falls under the *de minimis*⁸⁵ rule, a measure aimed at protecting the fair market competition from favourable treatment of certain companies by the state. As a result, a CSO could only access 200 000 euro over a 3-year period, even though it is not a company operating in the market economy. This unjust treatment further limits the access to funding of the CSO sector.

⁷⁹ See here: <https://www.ngo.vote/news/27-09-22>

⁸⁰ Available here: <https://csosi.org/>

⁸¹ Available here: <http://bcnl.org/uploadfiles/documents/%D0%98%D0%BD%D0%B4%D0%B5%D0%BA%D1%81%20%D0%B7%D0%B0%20%D1%83%D1%81%D1%82%D0%BE%D0%B9%D1%87%D0%B8%D0%B2%D0%BE%D1%81%D1%82%20%D0%BD%D0%B0%20%D0%9D%D0%9F%D0%9E%20%D0%B2%20%D0%91%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D0%B8%D1%8F%20%D0%B7%D0%B0%202021%D0%B3.pdf>

⁸² See: <https://nism.bg/en/nacionalna-programa-za-izp-lnenie-na-mladezki-dejnosti-po-cl-10a-ot-zakona-za-hazarta>

⁸³ See: [Позиция на Национален младежки форум относно НПМД](#) and [Програма без посока – Част 2](#)

⁸⁴ Available here: <http://data.europa.eu/eli/reg/2014/651/oj>

⁸⁵ See here: <https://eur-lex.europa.eu/EN/legal-content/summary/de-minimis-rule-exemption-of-small-amounts-of-state-aid-from-notification.html>

Bulgaria also fails to create new financial mechanisms to support the civic sector. A notable example of that is the grant scheme under art. 4 of the Non-profit Legal Persons Act. According to the law adopted in 2018, the CDCS oversees the redistribution of funding to support civil society. However, due to the delayed creation of the CDCS, this mechanism has never been realised. Although following the creation of the CDCS in 2022, the drafting of the needed regulatory framework for the mechanism was delayed due to the refugee crisis and the inconstant work of the CDCS as a consequence of the change of power in the country. It is expected that the first-ever financial mechanism under art. 4 of the Non-profit Legal Persons Act to be kickstarted in 2023.

While state funding for CSOs is lacking and underdeveloped, especially for work regarding human rights and rule law, foreign funding and foreign-funded organisations are constantly targeted by smear campaigns led by far-right political actors. In 2022 those smear campaigns were led predominantly by the Revival Party. In August, they announced that they were filing a complaint to the public prosecution for “corruption” against one of the largest donors in Bulgaria operating with funds from abroad and its grantees. Once the content of this complaint was made public it showed nothing more than a compilation of the publicly available database of the donor organisation and the information about the grantees derived from the Public Registry of the Not-for-Profit Legal Persons.⁸⁶ As part of this smear campaign the Revival Party filed in the Parliament the highly controversial Foreign Agents Registration Bill described above, while continuously framing Bulgarian CSOs as “foreign agents” and dangerous for the Bulgarian values and independence.

Recommendations

Freedom of association

- ✎ The authorities need to make additional efforts to simplify the administrative procedures connected to the registration and accounting of NGOs and engage in awareness raising campaigns in order to make them more accessible.
- ✎ Additionally, a solution needs to be found to resolve the legality issue of the online participation of members of the supreme collective bodies of NGOs. This could be archived 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.”
- ✎ The anti-money laundering and terrorist financing legislation should be amended in light of the results of the Sectoral Risk Assessment for NPOs and introduce tailored measures for CSOs who are considered to be in high-risk area (if such appears). Additionally, banks need to be properly instructed how to implement the AML/TF rules when providing services to NGOs to avoid bank de-risking.

Freedom of assembly

⁸⁶ Available here: ["ВЪЗРАЖДАНЕ" СЪС СИГНАЛ ДО ПРОКУРАТУРАТА ЗА КОРУПЦИОННАТА ДЕЙНОСТ НА ФОНДАЦИЯ "АМЕРИКА ЗА БЪЛГАРИЯ"](#)



- ✎ Additional training should be provided to police officers and members of the administration for the correct implementation of the freedom of assembly and the freedom of peaceful protest in particular.

Freedom of expression

- ✎ Legislative measures need to be undertaken to ensure the protection of journalists from SLAPPs. Additionally, a robust policy needs to be adopted to protect the freedom of media and to respond to the numerous smear campaigns undertaken by high-ranking politicians against media representatives.

Foreign Agents Registration Bill

- ✎ Given the anti-democratic nature of the Foreign Agents Registration Bill, it needs to be condemned by high-ranking officials and institutions both in Bulgaria and on an international level. The developments of the bill should be stopped.

Safe space

- ✎ The Bulgarian Penal Code should be amended in order to criminalise hate crimes by including xenophobic, racist and homophobic or transphobic motives as aggravating circumstances of certain crimes. Additionally, the judiciary should also step in and clearly acknowledge when a crime was motivated by hate in line with the ECtHR's case law.
- ✎ The authorities should refrain from any amendments to the Penal Code in connection to the crime of human smuggling which could breach the international standards and criminalise the help provided by NGOs or volunteers to refugees. Any arbitrary investigations of NGOs helping refugees should be ceased and authorities should further develop their cooperation with the CSOs working with refugees and, specifically, with asylum seekers entering the country irregularly.

The right to participation and dialogue between the civic sector and governing bodies

- ✎ The Civil Society Development should be provided with administrative resources to expand its work and kick off the process of drafting a Strategy for the Development of Civil Society
- ✎ A mechanism of structured civic dialogue should be developed in the field of digital democracy.

Civic organisations' financial viability and sustainability

- ✎ Additional public funding mechanisms provided by the government need to be adopted to support human rights protection and development of the civic space. Additionally, existing mechanisms need to be reformed to ensure transparency of the procedures.
- ✎ Authorities need to revise the implementation practices of the *de minimus* rule in a manner which does not discriminate NGOs when EU funding is distributed.

**About the contributor:*

The Bulgarian Center for Not-for-Profit Law (BCNL) founded in 2001 is a public-benefit foundation and is part of the network of the International Center for Not-for-Profit Law (ICNL) and of the European Center for Not-for-Profit Law (ECNL) which operate in over 100 countries worldwide with the aim to protect the right to association and develop the legal framework for civil organisations.