



Bulgaria

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation

Five main social issues addressed by these organizations: Primary and High School Education, Arts and Culture, Basic Needs, Youth and Family, Environment

Average time established by law to register a philanthropic organization: 0-30 days

Currently, the practice of registration varies around the country, but it may take more than a month in some cases to register an NGO. The system will change from January 1, 2018 when registration is transferred from courts to the Registry Agency, where registration should take three days.

Average cost for registering a philanthropic organization: US \$80

Government levels primarily regulating the incorporation of philanthropic organizations:
Other: Courts

Registration takes place in the regional courts. There are 28 regional courts in Bulgaria covering the whole territory of the country. From 1 January 2018 the registration procedure will change, and registration will be transferred from the courts to the Registry Agency – a body under the Ministry of Justice that has regional offices throughout the country.

Philanthropic Environment Scores:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	4.0	3.8	4.3	3.8	3.0	3.75

I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration, (B) operations, and (C) dissolution.

Question 1: To what extent can individuals form and incorporate the organizations defined?

Score: 4.0

The Bulgarian Constitution guarantees freedom of association, and the Law on Legal Entities with Nonprofit Purposes (NGO Law) provides that both Bulgarian and foreign legal entities and individuals with legal capacity can found a nongovernmental organization (NGO). (Only minors under 18 years of age and persons under guardianship cannot found an NGO.) The traditional forms of POs are associations and foundations. There is no minimum capital requirement to establish either of the two forms of organization (although foundations are required to provide some capital to pursue their objectives).

Currently, organizations register in the courts and there are some delays with the registration process. In addition, some of the court practices have been questionable, including limiting the use foreign words in the names of organizations, requiring public benefit foundations to have a collective management body, even though the law does not state such a requirement, or limiting any possible economic activity to NGOs, including the establishment of commercial subsidiaries. The establishment of NGOs is not costly or likely to deter applicants. Registration is not mandatory, and people can associate without forming a legal entity.

The only limitation to the possible goals of an association is given by Article 12 of the Constitution, which states that “Citizens’ associations, including trade unions, shall not pursue any political objectives, nor shall they engage in any political activity which is in the domain of the political parties.” Additionally, Article 44 prohibits NGOs from acting “in detriment of the country’s sovereignty and national integrity, or the unity of the nation.” It proceeds, “nor shall it incite racial, national, ethnic or religious enmity or an encroachment on the rights and freedoms of citizens; ... establish clandestine or paramilitary structures or shall seek to attain its aims through violence.” These laws have not really been used to limit the operation of NGOs, except for a few specific cases; for instance, the notable case of OMO Ilinden was refused registration and was found to be in violation of Article 11 of the ECHR. However, the reasons behind this decision were mostly related to the political situation and Bulgaria’s relations with neighboring Macedonia, and it is not representative of the regular practice in the country.

Question 2: To what extent are POs free to operate without excessive government interference?

Score: 4.0

The law allows both associations and foundations to have a flexible structure. There is a minimum structure required by law – general assembly of all members and a management board or a manager (in the case of associations). For foundations, the structure is even more lenient and only public

benefit foundations are required to have 2 bodies – a collective governance body and a management body. The only limitations, other than the ones prescribed by the Constitution, refer to specific areas; for example, hospitals or banks cannot be NGOs. Further, there has been no recorded administrative harassment or cases where the government acted against NGOs. In 2015, the Prosecutor’s Office inspected the personal income of NGO leaders that took part in anti-government protests this year. In 2016, they initiated checks on several environmental organizations based on negative media publications, which were clearly unsubstantiated.

There is no limitation on the communications of POs, either nationally or internationally, and Bulgaria is among the countries with the highest Internet accessibility. Internet is fast and costs are affordable; further, Internet access is free in many public spaces, yet 33 percent of the population do not use the Internet.

Reporting might be a little burdensome, as all organizations are required to submit reports to the National Statistical Institute, regardless of whether they have had any activity in the prior year. There is no differentiation between bigger and smaller organizations with regard to reporting, except that big organizations – where cash flow for the year exceeds approximately EUR €512,000 (approximately US \$588,090) – are required by law to have their finances audited.

Question 3: To what extent is there government discretion in shutting down POs?

Score: 4.0

NGOs can be terminated voluntarily, based on a decision of their highest body. They can be dissolved involuntarily in specific cases. These cases are described quite generally; for example, NGOs can be terminated for a violation of the Constitution, the laws, or the good morals/manners. Even though the reasons are general, there have been no reported cases of problematic termination. Moreover, the law requires that in any case of involuntary termination, NGOs should be given up to 6 months to correct the reason for termination. The only exception to this rule is based on the adoption of the Law for Countering Terrorism, adopted in December 2016. If a NGO is included in the list of individuals or entities against which there is a criminal procedure for terrorism, is found to be financing terrorism, or there is data that proves that the NGO engages in activities supporting terrorism then it can be involuntarily terminated.

These rationales for termination might be too broad, but there have been no such cases yet. In cases like these, the Chief Prosecutor can request the termination of the NGO and no period for rectification of the violation is given. In all cases, the decision for termination is made by a court.

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

Question 4: To what extent is the tax system favorable to making charitable donations?

Score: 3.5

Both corporate and individual donors receive tax deductions for making donations to eligible NGOs (registered as public benefit organizations). There are, however, limits to these tax deductions (Law on Corporate Income Taxation) – up to 10 percent of the profit for companies and up to 5 percent of the annual income for individuals. Moreover, the law provides various limits depending on the type of the donation and recipient organization, which creates different incentives for donating. For example, donations to arts & culture organizations have a limit of up to 15 percent, while donations to two state-established healthcare funds can receive 50 percent tax deductions. This puts NGOs in a less-advantaged position.

The procedures for getting tax exemptions are not complicated, although it is necessary to submit documents that prove that the recipient of the donation is a qualifying entity with a tax declaration. If the donor works under a labor contract, the donations could be made through the employer, in which case there is no need to file a tax declaration to gain a tax benefit.

With regard to in-kind donations, individuals need to show the market value of the donation in order to be able to claim deduction, which might be a little more complicated. In-kind donations also face a problem with regard to Value Added Tax (VAT), as companies cannot deduct the VAT for the donations they make. The only exception, introduced in 2016 and entered into force in January 2017, relates to the donation of food. There are, however, a number of practical problems and limitations with regard to this process. Still, this is an important breakthrough. An important practical problem for donations is the impossibility for pledges – promises to make donations in the future. However, this leads to practical obstacles; NGOs cannot enter into agreements with donors from whom they will be receiving donations in the future or will be receiving one donation in several portions.

Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?

Score: 4.0

NGOs do not pay tax on the income from donations. There is a corporate tax and a local tax, which is paid to the municipality, for donations, but public benefit NGOs are exempt from these taxes. In 2015, confusion arose about whether or not NGOs were obliged to declare donations they receive to the tax authorities, regardless of if they were tax-exempt or not. In order to clarify this, an amendment to the Local Taxes and Fees Law was made to ensure they are exempt from the declaration requirement as well. Public benefit NGOs are exempt from tax on inheritance (bequests). Moreover, tax is paid only on inheritances exceeding BGN 250,000 (approximately US \$146,500).

However, NGOs are not exempt from property tax. Only a special form of NGOs (community centers) and the Bulgarian Red Cross are exempt. The 2015 Philanthropy Report of the Bulgarian Donors' Forum shows that the officially reported donations from companies and individuals comprise less than 50 percent of all donations for that year (individual donations accounted for less than 6 percent, a little above US \$3.5 million). A problem with tracking donations has arisen since, beginning in 2015, the tax administration stopped tracking the types of donation recipients ; therefore, it is not clear what percentage of the recipients are NGOs (other qualifying categories include social care institutions, municipalities, etc.).

III. Cross-Border Philanthropic Flows

The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.

Question 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 4.0

There are no limitations to making donations abroad. With regard to bank transfers, there are no special limitations to donations either. The standard bank fees apply for such transfers. With regard to the possibility to use tax benefits for donations abroad, foreign entities based in the EU or the European Economic area can benefit from the same tax exemptions as local entities.

The text of Article 48. 11 (3) of the Local Taxes and Fees law states that the status of the recipients of the donation should be "identical or similar persons established in another Member State of the European Union or in a State which is a Contracting Party to the Agreement on the European Economic Area. In such cases, exemption shall be contingent upon the presentation by the person of an official document, attesting the status or the capacity in which the said person acquires the property, which is issued or certified by the competent authority of the relevant State, as well as the legalized translation of the said document into the Bulgarian language." Similar provisions exist with regard to the exemption from corporate income tax and individual income tax.

Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 4.5

In general, the tax treatment of the donation recipient does not change when the donation comes from abroad. The imports of goods by charitable and philanthropic organizations that have been received without payment are VAT-exempt. There are also exemptions from customs duties for goods with educational and healthcare purposes. In addition, there are exemptions for goods of first priority (food, medication, clothes), if they are provided free of charge to needy people and imported by public benefit organizations. There is no procedure for approval or notification to donations received from abroad. There is however, a requirement related to the regulation of money laundering and fight against terrorism financing. NGOs that receive funding (including donations) exceeding

BGN 30,000 (US \$17,590) or that have regular interaction with certain partners need to identify whom their donor/partner is. They also need to request a declaration of the origin of the funding. This applies to all payments, not just ones from abroad.

IV. Political and Governance Environment

The three indicator questions in the next two sections concern the political and governance context, socio-cultural characteristics, and economic conditions that influence the environment for philanthropy.

Question 8: To what extent is the political and governance environment favorable for philanthropy?

Score: 4.0

The political environment in the period 2014-2016 was marked with political instability and three different government regimes. In 2014, the socialist-led government faced street protests and boycotts by a number of civic leaders and NGOs. This blocked any interaction with organizations, and there were few positive partnership examples. On the other hand, 2016 saw some positive developments, such as adoption of amendments to the Law on Normative Acts that provided for better regulation of citizen participation. In September 2016, amendments to the NGO Law were adopted that would guarantee the implementation of regular strategies for NGO support and ensure that funds from the national budget are provided to support NGO projects and to establish the Civil Society Development Council. The amendments, however, will not enter into force until 2018.

Citizen participation remains to be further developed in Bulgaria. The Citizen Participation Index, developed by the Citizen Participation Forum and the Bulgarian Center for Not-for-Profit Law (BCNL) indicated that the score for participation is only 3.39 (out of a maximum of 6) in 2015. Very often, the public councils or other forms of public participation are just a formality. Additionally, the lowest score of the CSO Sustainability Index for Bulgaria is for financial viability. The main sources of funding continue to be foreign donors. Individual giving remains really low, although there are a few organizations trying to engage in fundraising from individuals. State funding for NGOs is limited and a large part of it is provided without a bidding process to a few traditional organizations, such as the Bulgarian Red Cross, The Union of the Blind People, etc.

Question 9: To what extent are public policies and practices favorable for philanthropy?

Score: 3.5

Because of the multiple changes in government, the government strategy for the support of civic organizations adopted by the previous government officials was not implemented. Its timeline expired at the end of 2015, and no new strategy has been in place since then. One of the activities in the government's implementation plan included supporting philanthropy and even appointing an Ambassador for Philanthropy. This activity was never really implemented. The only activity implemented to support philanthropy was the adoption of the amendments to the VAT law that allowed for the donation of food.

The government promotes philanthropy for its own benefit, e.g. a special tax benefits for two state health-related funds and the granting of equal tax benefits to donations to public benefit NGOs and to municipalities and state-owned companies. Therefore, it is fair to say that the government does not exert pressure over NGOs; however, the government provides incentives for donations given to their own organizations rather than to independent NGOs. One of the biggest donation campaigns is coordinated by the President and is called Bulgarian Christmas.

State funding is limited, with the majority of it going to youth and sports organizations/initiatives, as well as to organizations for people with disabilities. State funding is also provided for the contracting of social services, which in most cases are contracted to NGOs. After a long debate, the government adopted a school standard for civic education, which should ideally also cover philanthropy). Unfortunately, in the end, there will not be an exclusive or mandatory class on civic education, rather the matter will be integrated with other topics and will be a voluntary class.

V. Socio-Cultural Environment

Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?

Score: 3.0

There was a developed tradition of philanthropy in Bulgaria before 1944 when the country began its socialist development. All foundation assets at that time were nationalized and the private initiatives were terminated. All needs were supposed to be satisfied by the government. There were few NGOs dealing with social issues, either.

In 1989, the development of the civil society began again. However, 27 years is not sufficient to rebuild a strong philanthropic culture. Additional obstacles include the fact that Bulgaria is the poorest EU state member with a large portion of the population living below the poverty level. Moreover, there is still no sufficient private wealth accumulated; therefore, donations from individuals are scarce. According to the World Giving Index 2016, only 13 percent of Bulgarians have donated to NGOs. Similarly, only 7 percent of society volunteered for NGOs.

A Bulgarian Donors' Forum research from 2015 shows that the most popular methods for donating are through donor text messages and through collection boxes, and although both are easy ways to collect charitable giving, they do not necessarily show a strategic approach to fundraising. According to a recent Open Society Institute (OSI) survey in Bulgaria, only 33 percent of the population trusts NGOs and 39 percent distrusts them; nevertheless, this makes NGOs more trusted than the Parliament, the government, and political parties. According to the survey, the largest proportion of people (25) distrusts NGOs, which might be a sign of the lack of knowledge of what NGOs are and what is their role in society. In general, the survey shows the general lack of trust professed by the Bulgarian society, as only 2 institutions are trusted by more than 50 percent of the respondents—the EU and the Orthodox Church. In recent years, there have been several cases of media attacks against NGOs. The publications questioned several NGOs' motives for carrying out their activities and began a debate about whether NGOs protect national interests if the funding source is foreign.

VI. Future of Philanthropy

These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.

Current state of the philanthropic sector

The NGO sector in Bulgaria is still developing. One of the biggest problems for organizations is their financial sustainability. Most organizations have been recently established (in the last 25 years) and there are very few that can be considered stable institutions. The traditional mechanism for funding NGOs has been through project funding (predominantly by international donors). With the accession of Bulgaria to the EU, a number of private foreign donors have decided to leave the country. The EU has become a major donor, but its funding is different both in terms of procedures and also in terms of objectives (e.g. more focused on services than human rights and democracy). The biggest donor supporting NGO capacity building and sustainability is the America for Bulgaria Foundation.

In the last two years, there have been a series of biased, negative attacks on NGOs in some local media. The attacks primarily target environmental or human rights and watchdog organizations. This is in-line with what is happening in some other countries, such as Hungary, for example. In terms of philanthropy, this is still a largely underdeveloped area in Bulgaria because of a lack of trust and traditions, but also because of a lack of skills and awareness of NGOs. The primary target and source of donations for NGOs in Bulgaria are companies and not individuals. In terms of individual giving, the most popular tool used is the donor text message (DMS).

Three major recent events affecting the philanthropic landscape between January 2014 and December 2016

- In this period, there have been many changes in the political landscape, and three different governments were ruling. These changes affected NGOs – not only because of the involvement of some NGO leaders in the protests, but also because of the lack of stability in terms of whom to partner within the government;
- The New NGO law adopted in September 2016 will definitely have an impact on the NGO sector and its relations with the government and its policies. It remains to be seen what this effect will be as the law enters into force in 2018; and
- The amendments to the VAT law allow for the donation of food, as well as the receipt of VAT exemption. The mechanism created is rather complicated and began working in 2017, but it has the potential to have a positive effect in the near future.

Future development trends in the philanthropic landscape

- With regard to NGOs, a number of new nonprofits are established. Many of these organizations are volunteer-based. The more established organizations would likely be more interested in engaging in fundraising from individuals and companies and it is hoped that their share of donations in the NGO budgets will increase;

- Corporate donations have been decreasing in the last two years. There could be two possible developments related to this: i) the discussion of the need to establish corporate foundations, although this is not currently a major trend; and ii) the increase of individual donations, although their levels are currently very low; and
- Social entrepreneurship has been growing or has become trendy in the last years. NGOs have seriously started considering engaging in mission-related business activities. While companies see investments in social entrepreneurship as an efficient way to support social ideas, it remains to be seen how this will affect traditional philanthropy.

Three key recommendations to improve the environment for philanthropy

- The first recommendation relates to the promotion and visibility of the work in which NGOs engage. They need to improve their skills to tell their story and show their impact in order to engage people to support their causes – as volunteers, donors, members, or simply supporters;
- With regard to the regulatory environment, every measure attempting to simplify donations should be supported. An example is the possibility for donation pledges, or the promise to make a donation in the future. Another important aspect is the need to eliminate and prevent unfair conditions for donations by providing better tax exemptions for donations to state institutions; and
- Finally, yet importantly, it is necessary to continue to improve the interactions between NGOs and the authorities, not only in regard to policy-making but also in regard to collaboration on implementing programs and on devising solutions to public social issues. One very important problem-solving strategy is for the government to observe and copy some of the nongovernmental sector innovative models and to fund these initiatives and improve their sustainability. In addition, partnerships should not just remain policies and intentions, but they must be translated into practice.