



CONFERENCE OF INGOs
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**Fact-finding visit of the Conference of INGOs of
the Council of Europe to Sofia**

Analytical report

Sofia, Bulgaria, 23 - 25 November 2015

The fact-finding visit of the Conference of INGOs was organised in collaboration with the Bulgarian School of Politics 'Dimitry Panitza'. The Conference of INGOs expresses its gratitude to the team of the Bulgarian School of Politics for its commitment in the organisation of the visit and the preparation of the current report.

The goal of the visit was to meet decision-makers and representatives of NGOs working in the fields of civil participation, gender equality and social services. The meetings allowed to discuss the achievements, opportunities and challenges for NGOs in the decision-making process in Bulgaria. The expected results of the visit are:

- to formulate recommendations aimed at promoting the participation of civil society organisations (CSOs) in decision-making,
- to explore how the activities of the Conference of INGOs can support this process,
- to enable more active involvement of national NGOs in the activities the Council of Europe.

The delegation of the Conference of INGOs of the Council of Europe included Ms Anna Rurka, President; Ms Mihaela Preslavaska, member of the Expert Council on NGO Law; Ms Anne Negre, Gender expert of the Conference of INGOs; Ms Annica Ryngbeck, Social Platform; and Mr Ivan Nikoltchev, Civil Society Division of the Council of Europe.

This analytical report summarises the discussions held during the visit with NGOs and with national and local authorities. It includes information about the on-going reform concerning the functioning of NGOs, the opportunities and the challenges regarding their participation in the decision-making process.

Legal framework regarding participation and development of CSOs

According to the 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia elaborated by United States Agency for International Development Bureau for Europe and Eurasia, Bulgaria has almost 40 000 registered CSOs. Social services, education, and culture are the fields in which the largest numbers of CSOs operate.

In 2012, Bulgaria adopted the **Strategy for Support of the Development of Civil Society Organisations** for the period 2012 – 2015, complemented by the Vision to Create a Mechanism for Funding the Civic Sector and Plan to Implement the Strategy Measures. The Strategy is based on the principles of partnership, mutual respect, independence, civic participation, sustainability, transparency and conflict of interests' prevention. Unfortunately,

this important document was reportedly left without sufficient follow-up and further implementation, due to the lack of funding.

Amendments to the Law on Non-Profit Legal Entities proposed by the Ministry of Justice with the participation of representatives of civil society organisations in the working group are in an ongoing legislative procedure. One of the key novelties is the reorganisation of the registration for non-profit organisations. The proposal introduces fundamental reforms in the registration system and procedure. Registration is to become an administrative instead of a court procedure. The idea is to centralise the registration requirements in a single place – the Registry Agency. The Registry Agency already centralises several national registration databases such as the Commercial Register. Currently, non-profit organisations are registered by the Regional Courts, then in BULSTAT¹ and those in public benefit have to register additionally in a Central Register for non-profit organisations at the Ministry of Justice. With the amendments, the public benefit status will be acquired at the moment of registration which will make purposeless the Central Registry for public benefit non-profit organisations. This will end the currently existing discrepancy where some public benefit organisations are registered in the court but not in the Central Registry – a fact impairing the overall transparency and accountability of the sector and its public image. This reform will also allow for normalisation of the registration practices as at present there is an inconsistent practice of the courts which undermines the legal security and creates conditions for violations of the freedom of association.

The amendments simplify the procedure for registration and reporting and aim at reducing the administrative burden for non-profit organisations. This relates equally to the registry reform and the strategy for judicial reform targeting better regulation of the courts' overload. The easing of the workload of the courts will allow for relocation of resources to other tasks and will impact positively their functioning.

Among the expected positive effects are less time-consuming registration and reporting procedures, lower taxes (reduction of the related costs for individual organisations), and possibilities for electronic introduction of the documents. The changes will remedy the existing disadvantage of non-profits against commercial entities in terms of administrative burden related to registration. By imposing one-month delay for communication of all elements subject to registration, the proposal aims at improving the legal security. In the

¹ the main register used by the other administrative registers and information systems for single identification of all legal and other units operating in the country.

existing legislation there is no such delay for communication of modifications in the statutes, the election of new governing bodies or similar facts. A controversial sanction for systematic omission to submit to the Register the required documents which foresee the possibility of the termination of a legal entity on such grounds was challenged by civil society representatives as it is incompatible with the freedom of association.

The reform is also a way to make efficient and effective use of the organisational and technical resources of the Registry Agency.

As a result, the transparency and the accountability of the non-profit organisations will increase thus improving the possibilities for institutional and civic monitoring of their activities, and having as effect the raise of public trust in these organisations and the improvement of their image. This is expected to contribute to the enhancement of the partnerships of such organisations with the institutions and businesses. The amendments are expected to enter into force in 2016 and a three-year term, until the end of 2018, is proposed for the transfer of the registration files to the Registry Agency. No tax for that will be due.

Amendments of the Social Assistance Act are also subject to ongoing legislative procedure. Consultations with representatives of civil society are taking place although with variable effect. Among the successes of CSOs in the consultative process are the modification of the procedure for access to social services for persons under incapacity mandates and the removal from the proposal of the limited term for the registration of private social service providers which had the inherent risk to create inequality for private providers compared to public ones and to increase the administrative burden on them when they have to re-register periodically.

Public Consultations and Formal Interactions between Public Authorities and CSOs

Art 26 of the Statutory Instrument Act of Bulgaria stipulates that any statutory instrument (act of parliament, ministerial document etc.) must be published online for public consultation for a period of at least 14 days. During this period interested stakeholders can submit their opinion. The government has now introduced a draft amendment to the Statutory Instrument Act which aims to extend the minimum period to 30 days.

Mr Petko Petkov, Deputy Minister of Justice, explained that the government is obliged to answer all questions from NGOs and citizens, providing that the information is public. Very often, the draft amendments to a law are prepared by working groups consisting of academics, NGOs and experts from the Ministry of Justice. The draft text is posted on the

government's website for public consultation and announced in the media. Sometimes a round table is also organised. The working group then presents to the Council of Ministers revised draft amendments, motivating why some proposals from the consultation were taken on board and why others were not. NGOs have one more opportunity to react when the amendments reach the Parliament.

The NGOs have pointed out that the 14-day period is too short to react and that NGOs do not always have the resources to proactively monitor all the relevant websites of all the relevant institutions. The dispersion of information is a serious obstacle.

According to NGOs, their participation in a parliamentary or governmental working group does not automatically mean that their proposals will be taken into account. NGOs do not necessarily see the results of the consultations. Moreover, consultations often concern micro-decisions and not the major topics. Some NGOs ask themselves whether consulting them is merely a way to legitimise the decisions of the government. Furthermore, some parliamentary commissions invite NGOs to submit comments on draft laws and amendments related to issues they have expertise in. The choice of the NGOs, however, is not explained. Moreover, the comments are not always published on the relevant website so for some NGOs the effort is wasted.

Deputy Minister of Labour and Social Policy Mr. Lazar Lazarov explained that since 2003 Bulgaria has an Economic and Social Council composed of an equal number of representatives from the employers' associations, trade unions and NGOs. As required by the law, Bulgaria has tripartite councils in all sectorial areas, including employment, disability, equality between women and men and social inclusion.

The Ministry of Labour and Social Policy is in charge of ensuring equality between women and men. In 2005, the Council for Equality was established, bringing together representatives of public authorities and NGOs with at least five years of relevant experience who have an advisory voice.

As of 31 July 2015, there were 62 advisory councils to the executive power at the national level in Bulgaria. The possibility to create such bodies is set out in the Administration Act. In most of the councils, there are representatives of civil society but there are no uniform criteria for their selection. A common problem is the lack of feedback on why certain proposals are accepted or rejected.

There are also success stories: as a result of the good cooperation between decision-makers and relevant NGOs, a law for protection against domestic violence was passed.

In cases where dialogue with civil society is lacking, the intervention of the national or local ombudspersons can be crucial. These independent bodies have a key role to bring the voice of ordinary citizens and of communities to the attention of policy-makers. The Bulgarian national Ombudswoman, for example, receives on the average 50 complaints a day, mostly from citizens but also from NGOs. To address some of these complaints, she organised a round table on topics important for civil society.

Access to Funding

The European social fund is a very important source of funding which facilitates reforms. The Deputy Minister of Labour and Social Policy Mr. Lazar Lazarov explained that access to this kind of funding depends on the quality of service provided by CSOs. According to some NGOs, the bureaucratic procedures which accompany the access to these funds are major obstacles.

The state provides funding only for a few established NGOs, others depend on private or local funding. Funding for services provided by NGOs is decentralised and under the responsibility of municipalities. The funding is provided for very short periods, with very short-term evaluation indicators. The resulting financial insecurity does not allow NGOs to plan their actions for the long-term, apart from a few service providers which seem to have access to funding for longer periods.

Furthermore, a private provider of social services with an own material base cannot be granted state funding. The material base must be transferred to the state and only in such case the provider can compete for state funds. This is a great obstacle to the development of synergies for the provision of social services with the participation of civil society organisations.

The lack of transparency in terms of who receives funding and for what purpose was emphasised by the NGOs. At the same time, people often lack trust in NGOs' intentions when receiving or spending funding. This will require further long-term efforts focused on awareness-raising and changing attitudes in society.

NGOs active in the field of equality are composed almost entirely by volunteers with very limited financial means. Access to European calls for tender seems too complex for some of these NGOs. At the same time, some national subsidies for service-providing NGOs are shrinking. All this significantly restricts the actions of NGOs working in the field of equality while, on the other hand, they need to extend their coverage throughout the country.

The discussion also focused on the difference between service-providing NGOs and advocacy NGOs. Should there be different regulations for them as regards access to funding? If yes, how will equal treatment of different types of NGOs be ensured? What about NGOs whose work includes both aspects: service providing and advocacy? If they are financed with public money, would that prevent them from being critical?

Conclusions and Recommendations

In recent years, signs of enhanced autonomy of civil society on a local level suggest an emerging citizens' awareness of their own interests and needs, and an overcoming of the historically established stereotype of expecting all solutions to come from a higher instance – the central level. In general the authorities expressed their satisfaction with the participation of NGOs in public policies. The NGOs are more critical and this is their role.

The multiplicity of consultative bodies gives the impression of the lack of a clear channel to allow the NGOs to influence the authorities' decisions. It disperses and obscures the responsibility, disrupts the transparency, understood as a level of openness and disclosure of information concerning the values, processes and rules. On the other hand, the numerous consultative meetings in which NGOs need to participate disrupt their regular activities. Quite often, they feel they are wasting their time: they have the impression of participating in the secondary decision-making process while the important decisions are taken elsewhere. This negative impression is a warning signal for the national authorities because it can have an impact on the perceived legitimacy of their decisions.

The recently proposed amendments to the Law on Non-Profit Legal Entities and to the Social Assistance Act show that this issue is still an important priority for the government. But we also heard that just a few NGOs (from 38 000) have the capacity and resources to understand and use different procedural ways to get involved in the decision-making process.

After this analytical synthesis, we would like to formulate some recommendations which seem to us crucial for developing a more democratic and transparent participation. Their implementation should be the responsibility of both parties: the CSOs and the public authorities.

Legal environment:

- ensure streamlined registration and higher standards of accountability for NGOs and the authorities;

- improve the regulatory framework for NGOs to encourage their activities;
- enhance the tax regime for donors and for non-profit organisations in order to support the sustainability of these organisations;
- streamline the system of government funding to provide more effective delivery of public services.

Funding:

- create conditions conducive for transparency and for fair competition between NGOs for government funding.

Participation in public bodies:

- clarify the criteria for the inclusion of NGOs in the public consultative bodies and involve a broader set of stakeholder groups in the design or reform of policies;
- make more transparent and cohesive the participatory process which in turn will help to promote more effective implementation of the policies;
- unify the standards of participation in the different consultative bodies by creating a frame of reference for good practices or an observatory which will help establish high-quality participatory practices.

Standards for public consultations:

- extend the minimum period for public consultations;
- publish all documents for consultation on the same website even if the proposals concern different levels of decision-making (ministry, parliament, local authorities, etc);
- publish or acknowledge the accepted and rejected proposals submitted by NGOs: this feedback will also have a formative function and will allow NGOs to increase their capacity and adjust their response to the requirements;
- create an alert mechanism to signal whenever new information about public consultations becomes available on the relevant website;

Access to rights

- ensure favourable conditions for the participation of civil society organisations in the provision of services and adequate protection of the rights of the beneficiaries of social assistance;
 - . encourage NGOs to introduce their alternative reports to monitoring mechanisms at national and international level; authorities which facilitate such an approach show that they take into account different viewpoints in the democratic governance.

Capacity building:

- **support NGOs to build their capacity for advocacy and for effective participation in public consultations;**
- organise training and awareness-raising actions for civil society in order to:
 - strengthen the CSO network,
 - educate the citizens to exercise their rights,
 - strengthen the positive image of CSOs as legitimate and credible stakeholders in the public sphere,
 - mobilise community, media, business and other stakeholders' support for relevant NGO proposals.

International NGOs should facilitate the participation of Bulgarian national NGOs in the knowledge exchange with other countries.

International organisations should support the national stakeholders in encouraging the authorities to periodically update the Strategy for Support of the Development of Civil Society Organisations and the effective execution of the Plan to Implement the Strategy Measures. International organisations can play a role by supporting a culture of widening collaboration and improvements in the relevant information infrastructure in the country.