

2020

Legal Environment for Philanthropy in Europe

Bulgaria

COUNTRY PROFILE

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Bulgarian Donors Forum

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I. Legal framework for foundations

1. Does the jurisdiction recognise a basic legal definition of a foundation? (please describe) What different legal types of foundations exist (autonomous organisations with legal personality, non-autonomous without legal personality, civil law, public law, church law, corporate foundations, enterprise foundations, party political foundations, family foundations, foundations of banking origin as a specific type, companies limited by liability, trusts)? Does your jurisdiction recognise other types of philanthropic organisations?

The right of association is stipulated in Article 44 of the Constitution of the Republic of Bulgaria and in the Non-Profit Legal Entities Act (NPLEA). Non-profit legal entities can take two legal organisational forms - associations and foundations. All non-profit legal entities in Bulgaria are subject to registration in the Register of non-profit legal entities, maintained by the Registry Agency. A register of the non-profit legal entities shall be kept also with the Registry Agency to the Minister of Justice as of 31st January 2020.

Article 33 NPLEA prescribes that a foundation shall be founded during a founder's lifetime or on the occasion of a death by a unilateral founding act which gratuitously concedes property for achieving a non-profit goal. The only difference between the types of foundation provided for by the NPLEA is with regard to the determination of their activity – for public or for private benefit.

2. What purposes can foundations legally pursue?¹

- Only public-benefit
 Both public- and private-benefit

Bulgarian foundations can pursue both public-benefit and private-benefit purposes. They can freely determine their purposes as well as the means of achieving them, which shall be set forth in the Founding Act of the Foundation and which are public through the Register.

The NPLEA inexhaustively defines public-benefit purposes as: health; science; education; the development and establishment of spiritual values, civil society, engineering, technology, and physical culture; the support of the socially vulnerable and needy, and people with disabilities; the support of social integration and personal advancement; and the protection of human rights and the environment and other purposes defined by law.

In the NPLEA the following provisions relate to public-benefit activities:

Definition of activities

Article 2 NPLEA

Determining the activity

Art. 2. (1) Non-profit legal entities shall freely determine their goals and can identify themselves as organisations carrying out activities to the public or private benefit. The determination shall be made by the statutes, the constituting act or amendments in them.

(2) (amend. – SG 74/16, in force from 01.01.2018) The determination of carrying out public benefit activities shall be irrevocable after the entering of this circumstance in the register of the non-profit legal entities, maintained by the Registry Agency to the Minister of Justice.

Art. 38 NPLEA

Determination for carrying out activity for public benefit (title amend. – SG 74/16, in force from 01.01.2018)

Art. 38. (1) (amend. – SG 74/16, in force from 01.01.2018) The non-profit legal entities determined for carrying out public benefit activities shall spend their property for:

1. The development and promotion of civil society, civil society involvement, and good government.

¹ This question focuses only on public-benefit foundations; see the definition in the Glossary developed for this project, which can be found on the Philanthropy Advocacy website.

2. The development and promotion of spiritual values, health care, education, science, culture, engineering, technology or physical culture.
3. The support to children, people with disabilities and to individuals and societies at risk of social exclusion.
4. The protection of human rights or the environment.
5. Other goals determined by a law.

(2) A foreign non-profit legal entity can carry out public-benefit activities through its branch in the country under the conditions of this Act.

(3) (amend. – SG 79/06; revoked– SG 74/16, in force from 01.01.2018).

3. What are the requirements for the setting up of a foundation (procedure, registration, approval)? What application documents are required? Are there any other specific criteria for registration?

Generally in order to be recognised as and to receive the status of legal persons associations/foundations should be registered by the Register Agency to the Minister of Justice in a register of non-profit legal entities. According to the regulation of the Non-profit Legal Entities Act the procedure consists of preparing a set of documents: The statutes and the minutes from the general assembly in the case of an association and deed of incorporation in the case of a foundation.

The legal entity of the non-profit organisation is considered established by its entry in the register of the non-profit legal entities maintained by the Registry Agency to the Minister of Justice.

A foundation shall be founded during the lifetime of the founder or on the occasion of a death by a unilateral founding act which gratuitously concedes property for achieving a non-profit goal. For founding during the founder's lifetime it shall be necessary for the act to have notary certified signatures. When real rights are transferred on the basis of real estate, the founding act shall be entered by the judge for the entries at the regional court at the location of the real estate. The property submitted by a founding act shall be considered property of the foundation at the time of its occurrence from the date of the founding act during lifetime or of opening the last will and testament in case of death. The founder shall have the right to revoke the founding act until the establishment of the foundation, and this right shall not be passed on to the legatees.

The determination of carrying out public-benefit activities shall be irrevocable after the entering of this circumstance in the register of the non-profit legal entities, maintained by the Registry Agency to the Minister of Justice.

Art. 34 NPLEA

Contents of the founding act

Art. 34. (1) The founding act shall indicate:

1. The name.
2. The headquarters.
3. The goals.
4. The type of the activity according to art. 2.
5. The submitted property.
6. The bodies of the foundation.
7. The branches.
8. The rules regarding the authority of the bodies.
9. The rules regarding the way of representation.
10. The term for which the foundation is founded.

(2) In order for the founding act to be valid it shall be enough to comply with the requirements of para 1, item 3 and 5.

(3) The request for entry shall be made by the founder or by a person or a body authorised by same, the executor of the inheritance, the legatee or by some of the persons who would benefit from the activity of the foundation according to the founding act.

(4) (suppl. – SG 74/16, in force from 01.01.2018) If activities are necessary for the amendment or supplement of the founding act and it is impossible to be carried out by the founder or by an order established by him or by the law, the amendments shall be introduced by the district court at the headquarters of the foundation upon request of the interested applicants. The court shall be obliged to carry out the activities in compliance with the will expressed by the founding act. The court decision for amendments and the Memorandum of Incorporation shall be forwarded to the Registry Agency for entering in the Register and for ex-officio announcement.

4. Is state approval required? (approval by a state supervisory authority with/without discretion)

- Approval by a state authority with discretion
- Approval by a state authority without discretion
- Approval by a court
- Notarisation by a notary public

5. Are foundations required to register?

a) If foundations must register, in what kind of register?

- Company register
- Foundation register at national level
- Foundation register at the regional/county level
- Beneficial ownership register
- Any other public register (other than a foundation/charity one)

b) If foundations are registered, what information is kept in the register?

Art. 18. NPLEA

Registration of circumstances and announcement of documents in the Register (title amend. – SG 74/16, in force from 01.01.2018)

Art. 18. (1) (amend. – SG 74/16, in force from 01.01.2018)

Subject to entry in the register are the following circumstances:

1. The name, the objectives and means to achieve them, the subject of additional business activity.
2. The main office and the address.
3. The bodies, the names of the members of the managing body, the names and the positions of the persons representing the non-profit legal entity.
4. The definition for carrying out activities for public or private benefit.
5. The total amount of the initial proprietary instalments, if stipulated.
6. The termination of the non-profit legal entity.
7. The transformation.
8. The names, as well as the addresses of the liquidators.
9. The deletion of the non-profit legal entity.
10. The branches of the non-profit legal entity, the headquarters and the registered address, the names and the position of the person, nominated to represent it, as well as the restrictions of the authority and his representative authority stipulated by the foundation act.

11. (new - SG 27/18) The identification data for the actual owners and the data for the legal persons or other legal entities, through which, directly or indirectly, control is exercised, as required by the Act on Measures Against Money Laundering.

(2) (amend. – SG 74/16, in force from 01.01.2018) Subject to announcement in the register shall be the following documents:

1. The decision for the incorporation of the non-profit legal entity.
2. The by-laws of the associations, or the Memorandum of Incorporation of Foundations.
3. The decisions for changes of particulars subject to registration.
4. Financial statements of the non-profit legal entity, and also the business report under Art. 40, par. 2 for those determined to carry out activity for public benefit.

(3) Entered, regarding the branches of foreign non-profit legal entities shall also be:

1. The goals of the foreign non-profit legal entity.
2. The goals under item 1 which shall be accomplished by the branch.
3. The defining of the branch for carrying out public-benefit activities.

(4) Subject to entry shall also be the changes of the circumstances under para 1, 2 and 3.

(5) (new – SG 74/16, in force from 01.01.2018, amend. - SG 98/18, in force from 01.01.2019) The circumstances and the acts under par. 1-3 shall be stated in order to be entered respectively for announcement in the register of non-profit legal entities, maintained by the Registry Agency to the Minister of Justice, within one month from the date of their occurrence or change, accordingly with the exception of the annual financial reports and the annual activity reports, which are published in the order and within the terms of the Accountancy Act.

c) If foundations are registered, is the register publicly available?

- Yes, all information publicly accessible
 Yes, some information publicly accessible
 Yes, accessible upon request
 No

6. Is a minimum founding capital/endowment required?

- No
 Yes, amount:

7. Is the foundation required to maintain these assets or any other specified asset level throughout its lifetime? Are spend-down foundations allowed?

No.

8. What governance requirements are set out in the law? Is it a one-tier or two-tier foundation governance model?

a) Is it mandatory to have a:

- Supervisory board
 Governing board

It is a one-tier governance model according to which the foundation shall have a managing body which can be personal or collective.

b) What are the requirements concerning board members? Is a minimum/maximum number of board members specified? Does the law regulate the appointment of board members and their resignation/removal or can this be addressed in the statutes/bylaws?

The foundation shall have a managing body which can be personal or collective. If the managing body of the foundation is personal, there are no minimum/maximum number of members. If the managing body is collective and the founding act stipulates more than one body, the rules for the general assembly and the managing board of an association shall apply respectively for the other bodies, which require at least three persons.

A foundation pursuing public-benefit activities shall have only a collective supreme body and managing body.

Within the above rules, the appointment and resignation/removal of board members is delineated in the statutes.

- c) What are the duties and what are the rights of board members, as specified by national legislation or case law?

The issue of the rights and duties of members of foundation bodies is directly linked to the issue of the internal relationships that may arise in a foundation. In general, board members have the following groups of rights: property rights, non-property rights, and organisational rights. With regard to the rights and obligations of foundation board members, there is no explicit regulation in legislation, but they may be freely detailed in the statutes.

In practice, some of the most important rights are: The right to participate in the organisation's management; the right to receive information about its activities and to benefit from its results pursuant to the procedure set forth in the statutes; the right of oversight over the decisions of the bodies; and the right to use the organisation's property. Among the obligations of foundations' board members deserving attention is the obligation to participate in the organisation's activities and to perform their activity in good faith and in compliance with the law and the statutes.

In cases of non-performance of the obligations resulting in damages to the organisation, board members are held liable in person. The most common cases of non-performance are non-participation in board meetings and lack of active contribution to the achievement of the organisation's purposes.

- d) What are the rights of founders during the lifetime of the foundation? Can fundamental decisions, such as change of purpose, be made at the discretion of the founder? What are the legal requirements in such circumstances?

When a foundation is incorporated, its founders may reserve for themselves or for third parties designated by them some of the powers to ensure further observance of their will. The most common rights that are reserved in practice include: Vetoing of amendments to the statutes, deciding on termination or transformation of the organisation, and, in some cases, selecting the board members of the foundation.

The powers reserved for the founder or a third party designated by the founder shall pass to the appropriate organ of the foundation, if the founder or such third person appointee dies, is incapacitated, is dissolved in the event it is a legal person, or their whereabouts are unknown.

If the persons referred to in the foregoing paragraph do not exercise their powers with due diligence, or are unable to exercise their powers, the registration court, upon a motion of the governing body, may decide to transfer the powers of these persons to the appropriate organ of the foundation for a definite or indefinite term.

- e) Can the board or the founder amend the statutes including the purpose of the foundation? If yes, please indicate any particularities. What is the relationship between the powers of the founders, the statutes of the foundation and the power of the board members?

Yes, they can, following the rules in the statutes. The amendment of the purpose of the foundation shall be taken by majority of two thirds if the managing body is collective.

- f) What are the rights of third parties (e.g. right of information)?

The rights of the beneficiaries are not defined by any law.

- g) What rules are in place to ensure against conflict of interest? What is the legal definition of a conflict of interest under your legislation? How is self-dealing prohibited?

Since October 2008 there is a Law to prevent and detect conflicts of interest, but it regulates only the conflict of interest of people working in the public administration and it is not applicable directly to the foundations.

According to the Act on Prevention and Findings of Conflict of Interests, conflicts of interest arise when persons occupying public positions have private interest, which may influence the impartial and objective performance of their powers or official obligations. Private interest shall be any interest that leads to a benefit of material or nonmaterial nature for a person occupying a public position or for persons related to him/her, including any undertaken obligation. Benefit shall be any income in cash or in property, including acquiring shares or stocks, as well as giving, transfer or refusal of rights, receiving favours or honours, receiving goods or services free or at prices lower than the market ones, assistance, vote or support of influence, priority, receiving or promise for work, position, gift, award or a promise for avoiding loss, responsibility, sanction or any other unfavourable event.

h) Can staff (director and/or officers) participate in decision-making? How and to what extent?

The obligations and responsibilities of the staff are not determined by law. It is a decision of the governing body and must be stated in the statutes of the foundation.

9. What is the liability of the foundation and its organs? What is the general standard of diligence for board members? (e. g. duty of obedience, duty of care/prudence, duty of loyalty)? In what type of rule are these criteria established: fiscal, administrative, civil, commercial? Is there a solid case law, if any, regarding the duty of due diligence? Does your country differentiate between voluntary (unpaid) and paid board members? Who is allowed to bring a complaint about breaches of such duties: the other members of the board, the founder/s, the public authorities? If a complaint is brought, which authority has competence in such cases: administrative, tax authority, only the judiciary power (attorney general) or beneficiaries/general public?

With regard to the rights and obligations of foundation board members, there is no explicit regulation in legislation but they may be freely detailed in the statutes.

In practice, some of the most important rights are: The right to participate in the organisation's management; the right to receive information about its activities and to benefit from its results – pursuant to the procedure set forth in the statutes; the right of oversight over the decisions of the bodies; and the right to use the organisation's property. Among the obligations of foundations' board members deserving attention is the obligation to participate in the organisation's activities and to perform their activity in good faith and in compliance with the law and the statutes.

In cases of non-performance of the obligations resulting in damages to the organisation, board members are held liable in person. The most common cases of non-performance are non-participation in board meetings and lack of active contribution to the achievement of the organisation's purposes.

In 2018 a new Measures Against Money Laundering Act was adopted following the requirements of the AML Directive of the EU. According to this Act, all NGOs including foundations are required to adopt and apply clear internal order and procedures, including defining of the activities, internal rules for accountancy, control and distribution of the functions in the organisation, check-up of key employees for finding negative public information or possible coincidence with persons under **Art. 4b of the Measures against Financing terrorism Act**, procedure for granting funds, complete control over the used bank account and financial instruments, and monitoring of the activity of the branches or related non-profitable legal person.

They are obliged to notify the Financial Intelligence Directorate of the National Security State Agency and the relevant supervision body for any suspicious interactions, which can indicate a crime related to money laundering.

Does your country differentiate between voluntary (unpaid) and paid board members?

No, there is no legal differentiation between voluntary and paid board members, although the board members of foundations are usually volunteers.

Who can claim responsibility for breaches of such duties: the other members of the board, the founder/s, the public authorities. In which case who: administrative, tax-authority, only the judiciary power (Attorney General) or beneficiaries/general public?

The other board members and the founder as regards breach of duties stemming from the law and the statutes. As regards breach of other laws, public authorities can claim responsibility (tax authorities on taxation issues, public prosecutor on criminal issues etc.).

10. Who can represent a foundation towards third parties? Is this specified in law or is it up to the statutes of the organisation? Do the director and officers have powers of representation based on legislation?

It is specified in the statutes of the organisation. If not specified, the default rule is that the chairman of the managing body can represent the foundation.

11. Are purpose-related/unrelated economic activities allowed? If so, are there other types of limitations on economic activities (related/unrelated)?

Yes, a foundation can pursue purpose-related economic activities only if:

- They are related to the subject of the basic scope of activities specified in their registration, and
- The revenues are used for the purpose of attaining the objectives set forth in the statutes.

The types of business activities a foundation can engage in have to be set forth in its statutes. Foundations are allowed to pursue business activities only in compliance with the terms and procedures stipulated by the laws regulating the respective types of business activities. In addition, foundations are prohibited from distributing profit.

The business activities must be additional, i.e. their volume should not exceed the volume of the basic non-economic activities. The bulk of all the foundation's resources (e.g. material, human, financial, etc.) should be mobilised for achieving the basic statutory purposes.

Unrelated economic activity is not allowed.

12. Is there any legal/fiscal framework for grantmakers to be able to fund legal entities that are conducting economic activities in addition to their public utility activities? If any, what are the limitations for funding those kinds of legal entities?

No, there is no specific framework for support by grantmakers to legal entities which conduct additional economic activities.

13. Are foundations permitted to be major shareholders in a company? Are there any limitations to voting rights? Is this considered as an economic activity?

There is no limitation with regard to shareholding. Foundations can own shares in commercial companies, including being the sole owner or major shareholder in these. This would be considered as an economic activity and has to follow the rules described in Question 11.

14. Are there any rules/limitations in civil and/or tax law regarding foundations' asset management (only secure investments/bonds/investments with a certain return)? What, if any, types of investment are prohibited? Are there any limitations on mission-related investments?

There are no specific rules or limitations as regards asset management. However, it is hard to justify that managing assets and financial instruments is an economic activity that is related to the basic non-profit activity of the foundations, therefore such situation is rather theoretical.

15. Are foundations legally allowed to allocate grant funds towards furthering their public-benefit purpose/programmes which (can) also generate income – impact investing? (recoverable grants; low interest loans; equities)

Foundations can provide loans as part of their activity. They cannot, however, attract deposits, which is an activity typical for banks only. As this is an economic activity, it is subject to the legal limitations applicable to NGO economic activity (i.e. to be additional to the main non-profit activity and to be related to the non-profit purposes of the organisation).

16. Are there any limitations (in civil law/tax law) to political party related or general lobby/advocacy activities?

There are no such limitations related to political parties.

17. What are the requirements for an amendment of statutes/amendment of foundations' purpose?

The power to make amendments to the statutes or to the statutory purposes is reserved for the supreme body of the foundation and cannot be delegated to another organ. Founders or third parties designated by them may, however, have a reserved right to veto the amendments to the statutes.

If the statutes need to be amended and it is not possible for such action to be taken by the founder, or according to a procedure established by the founder or by law, upon request of interested applicants, the district court at the seat of the foundation shall make the amendments. The court shall take action in accordance with the intent of the statutes.

18. What are requirements with regard to reporting, accountability, auditing?

a) What type(s) of report must be produced?

- Annual financial report/financial accounts
- Annual activity report
- Public-benefit/activity report
- Tax report/tax return
- Other reports e.g. on 1% schemes
- Reports on governance changes (e.g. new board members)
- Report on conflict of interest (self-dealing and conflict of interest breach cases)

b) Must all/any of the reports produced by the foundation be submitted to supervisory authorities? If so, to which authorities (e.g. foundation authority, tax authority)?

A foundation carrying out public-benefit activities shall prepare a report on its activity once a year, which shall contain data regarding:

1. The carried out activities, the spent resources, their relation to the goals and programmes of the organisation and the achieved results.
2. The size of the gratuitously received property and the revenue from the other activities for raising funds.
3. The type, the amount, the value and the objectives of the donations received and granted, as well as information about the grantors.
4. The financial result.

The annual report on the activity and the financial report of the non-profit legal entity for carrying out activities for public benefit should be declared for announcement in the non-profit legal entities maintained by the Registry Agency by 30 June of the year following the year to which they refer.

c) Are the reports checked/reviewed? By whom (supervisory/tax authorities)?

They may be checked by the tax authorities, but it is not mandatory.

- d) Do any or all of the reports and/or accounts of foundations need to be made publicly available? If so, which reports and where (website, upon request)?

Yes, the annual and the financial reports are made public in the register of the non-profit legal entities, maintained by the Registry Agency for the Minister of Justice.

- e) Is external audit required by law for all foundations?

The annual financial statements of the non-profit legal entities established for carrying out activities for public benefit shall be subject to an independent financial audit under the conditions of the Accountancy Act. Art.37 (1), (4), (5):

1. Book value of the assets as of 31 December - BGN 1,000,000 (~ €500,000)
2. Amount of the revenues from economic and non-economic activity for the current year - BGN 2,000,000 (~ €1,000,000)
3. Total amount of the financing received during the current year and unused as of 31 December of the current year, the financing received during previous reporting periods - BGN 1,000,000 (~ €500,000).

- f) By whom should audits be undertaken? Do requirements/guidelines exist regarding international and national auditing agencies and standards?

By registered independent auditors. There is a dedicated Law on the independent financial audit which sets out the requirements and is in line with international standards.

19. Supervision: Which authority, what measures?

- a) What type of body is the supervisory authority? (multiple answers possible)

- A public administrative body
- A public independent body
- A combination of a governmental body and a court
- A court
- A public administrative body and an independent body
- A tax authority
- Other

- b) Does the supervisory body review reports?

- Yes
- No

The annual financial statements of the non-profit legal entities established for carrying out activities for public benefit shall be subject to an independent financial audit under the conditions of the Accountancy Act.

- c) Are foundations subject to inspection?

- Yes
- No

- d) Is approval from the authority required for certain decisions of the governing board?

- Yes, formal approval is needed
- Yes, needs just to be informed
- No

If yes, please specify which type of decisions:

- e) Is it mandatory to have a state supervisory official on the governing board?

- Yes

- No
- Can a government official be appointed to the governing board by a state authority, if so please mention:

f) What enforcement measures are in place (including compliance measures and sanctions for non-compliance) concerning registrations, governance, reporting, and public-benefit status?

See above.

20. When and how does a foundation dissolve?

A foundation dissolves:

1. With the expiration of the term for which it has been founded.
2. By a decision of its supreme body.
3. By a decision of the district court at the location of the headquarters of the foundation entity when:
 - a) It has not been founded by the lawful way.
 - b) It carries out activity contradicting the Constitution, the laws or the good morals.
 - c) It is included in the list of the Measures Against Financing of Terrorism Act or there is evidence that it operates to support terrorism.
 - d) It has been declared bankrupt.

The dissolution of foundations always involves a procedure for liquidation. It is conducted by the managing body or a person assigned by it. Where no liquidator has been assigned, such a person is assigned by the district court where the foundation is domiciled. With regard to insolvency, bankruptcy, the liquidation procedure and the authority of the liquidator, the relevant provisions of the Commerce Act shall apply. Following the distribution of the property, the liquidator is bound to request deletion of the registration of the foundation by the district court where the foundation is domiciled.

21. Is there a maximum that can be spent on office/administration costs in civil law and/or tax law? If yes, what is the amount?

No.

22. Does civil and/or tax law require a foundation to spend a certain percentage of its overall assets within a certain period of time (e.g. within the next financial year)? In particular, can a foundation accumulate these expenses over a period of time (and if so, what kind of authorisation is required to do so)?

No.

23. Under what conditions does the civil law in your country recognise a foreign foundation? Do they have to register? Does your law recognise the concept of trusts?

The NPLEA generally does not differentiate between foreign and domestic legal and natural persons. According to Article 38, para. 2 "Foreign non-profit legal entities may perform public benefit activities through their branches in the country under the conditions of this Act". The legal capacity, establishment, reorganisation and dissolution of non-profit legal entities, their management, representation and membership shall be governed by the laws of the country of their domicile. Therefore, according to Article 52 of the NPLEA, the laws of the country of domicile of the branch shall govern the establishment, operation and closing down of branches of foreign non-profits. They may establish branches in this country provided their purposes are not contrary to the public order and laws of Bulgaria. The law does not distinguish between nationals and non-nationals for purposes of governing, membership or management of an association and does not stipulate any additional requirements on the basis of citizenship.

24. Does the law in your country allow a foundation to conduct (some or all) activities (grantmaking, operating, asset administration, fundraising) abroad? Is there any limitation?

The law does not have any special requirements on this. It depends on the statutes of the foundation.

25. Does the law in your country impose any restrictions on ability to receive donations from abroad? If so, please describe.

No.

26. Does the civil law in your country allow the transfer of the seat of a foundation (in the EU) and/or cross-border mergers?

No.

II. Tax treatment of foundations

1. What are the requirements to receive tax exemptions?

- Pursuing public-benefit purposes
- Non-distribution constraint
- Being resident in the country
- Other

2. What are reporting/proof requirements to claim tax exemptions? What does the foundation have to submit to the authorities (statutes, financial reports, activity reports, other?)

There are no special reporting requirements, just a registration for public benefit.

3. Is specific reporting required for the use of public funds (grants received from public bodies/state/municipality/etc.)?

No, the use of public funds is reported together with the use of other funds in the annual report on the activity (for foundations pursuing public benefit) and the annual financial report.

4. Is there an obligation to report to public authorities on donors and beneficiaries? If so, to which authority and what type of information?

According to art. 40 NPLEA, the non-profit legal entity for carrying out public-benefit activities shall be obliged to keep books for the written records of the meetings of its collective bodies. The chairman of the meeting of the collective body and the person who has prepared the written records shall certify and be responsible for the correctness of their contents. The non-profit legal entity for carrying out public-benefit activities shall prepare a report on its activity once a year, which shall contain data regarding:

1. The carried out activities, the spent resources, their relation to the goals and programmes of the organisation and the achieved results.
2. The size of the gratuitously received property and the revenue from the other activities for raising funds.
3. The type, the amount, the value and the objectives of the donations received and granted, as well as information about the grantors.
4. The financial result.

The annual report on the activity and the financial report of the non-profit legal entity for carrying out activities for public benefit should be declared for announcement in the list of non-profit legal entities maintained by the Registry Agency by 30 June of the year following the year to which they refer.

Further, all NGOs are obliged to adopt internal AML rules according to the Measures Against Money Laundry Act (MAMLA). According to art.3 of this law the measures for prevention of using the financial system for the purposes of money laundering shall be:

1. A complex check of the clients.
2. Collecting and drawing up documents and other information under the conditions and procedures of this act.
3. Keeping of documents, data and information drawn up and collected for the purposes of this act.
4. Risk assessment from money laundering and financing terrorism.
5. Disclosure of information about suspicious operations, transactions and clients.
6. Disclosure of other information for the purposes of this act.
7. Control over the activity of the obliged subjects.
8. Exchange of information and cooperation at national level, as well as exchange of information and cooperation between Financial Intelligence of Directorate of the National Security State Agency;

the units for financial intelligence of other states and jurisdictions; as well as with the competent bodies and organisations of other states in the relevant area.

All suspicious transactions shall be reported.

5. Is there a statutory definition of what a public-benefit purpose (charitable purpose) is in the civil law (foundation law, trust law) of your country? If yes, please give us the definition. If so, is the determining definition that subsequently links to tax benefits?

The NPLEA inexhaustively defines public-benefit purposes as (Article 38): 1. The development and promotion of civil society, civic participation and good governance; 2. The development and the affirmation of spiritual values, healthcare, education, science, culture, technique, technologies or physical culture; 3. Support for children, for people with disabilities and for persons and communities at risk of social exclusion; 4. The protection of human rights or the environment; 5. Other purposes determined by law.

6. Is there a statutory definition of what a public-benefit purpose is in the tax law of your country? If yes, please give us the definition.

No, the only definition is in the NPLEA. In the tax laws the NPLEA is referred in the section for the tax deductions for the donors – both corporate and individual persons.

7. Please indicate whether the following purposes would or would not be accepted for tax privileges in your country (noting that the tax status often depends on additional requirements):

Public-benefit purpose	Accepted in tax law (for tax privileges)			
	Yes	Probably yes	Probably no	No
Arts, culture or historical preservation	x			
Environmental protection				x
Civil or human rights				x
Elimination of discrimination based on gender, race, ethnicity, religion, disability, sexual orientation or any other legally prescribed form of discrimination				x
Social welfare, including prevention or relief of poverty	x			
Humanitarian or disaster relief	x			
Development aid and development cooperation				x
Assistance to refugees or immigrants				x
Protection of, and support for, children, youth or elderly	x			

Assistance to, or protection of, people with disabilities				X
Protection of animals				X
Science, research and innovation				X
Education and training	X			
European and international understanding (e.g. exchange programmes/ other activities aimed at building bridges between nations)				X
Health, well- being and medical care	X			
Consumer protection				X
Assistance to, or protection of, vulnerable and disadvantaged persons	X			
Amateur sports				X
Infrastructure support for public-benefit purpose organisations	X			
Party political activity				X
Advocacy				X
Advancement of religion	X			
<i>Other – please list other purposes accepted in tax law for tax privileges in your country</i>				

8. Support of “the public at large”

- a) Do the activities of a foundation with public-benefit status for tax purposes generally have to benefit “the public at large”?

No.

- b) If yes, can a foundation with public-benefit status for tax purposes support a closed circle in a sense that beneficiaries can be identified based on legal or family affiliations?

No.

9. Non-distribution constraint

- a) Does a foundation with public-benefit status for tax purposes generally have to follow a “non-distribution constraint” which forbids any financial support of the foundation board, staff, etc.?

Yes, if it is provided in the statutes.

- b) What happens with the foundation's assets in case of dissolution - can the assets revert to private ownership or do they have to stay in the public-benefit sphere?

The property remaining after the satisfaction of the creditors is provided by a court decision to the non-profit legal entity, determined for carrying out public-benefit activity with the same or close non-profit purpose, if the order for its distribution is not regulated in the statutes or the constitutive act.

If the property is not provided by that procedure, it is handed over to the municipality in which the seat of the terminated non-profit legal entity is. The municipality is obliged to provide the property for carrying out public-benefit activity as close as possible to the purposes of the terminated non-profit legal entity.

10. "Altruistic" element

- a) Is remuneration of board members allowed in **civil law** and in **tax law**? If remuneration is allowed, are there any limits in **civil law** and/or in **tax law**?

Remuneration is not mentioned in the NPLEA, therefore it is allowed under the general civil law.

- b) Does **tax law** allow a donor/funder to receive some type of benefit in return for a donation? (e.g. postcards, free tickets for a concert)

When donors (physical persons) make a donation, they can benefit with a reduction of their tax base up to 5%. When the donor is a legal entity, the amount of the donation can be deducted from the financial results of the company up to 10% from that result.

- c) Is there a maximum amount that can be spent on office/administration costs in **civil law** and in **tax law**? If yes, how are "administration costs" defined? Please indicate which of the following types of expenditures would/would not be considered as "administration costs":

No, there is no maximum amount.

- Personnel costs (staff salaries/payroll costs)
- Board remuneration
- Costs of external audit
- Other legal/accounting costs
- General office overheads (rent/mortgage payments, utilities, office materials, computers, telecommunications, postage)
- Insurance
- Publicity and promotion of the foundation (e.g. website, printed promotional materials)
- Asset administration costs
- In the case of an operating foundation – costs related to programmes/institutions run by the foundation
- Costs related to fundraising

11. Hybrid structures (elements of private benefit in public-benefit foundations)

- a) Does the **civil law** of your country accept the following provisions/activities of a public-benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, their spouse and descendants.		x			
The founder retains a beneficial reversionary interest in the capital of a property or other asset for their own continuing use.		x			
The gift consists only of the <i>freehold reversion</i> (residuary interest) in a residence		x			

that is subject to an existing lease (for a term of years, or even for life) in favour of the founder (or another member of their family) as tenant.					
A foundation distributes a (small) part of its income to the founder or their family.		x			

b) Does the **tax law** of your country accept the following provisions/activities of a tax-exempt foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, their spouse and descendants.			x		
The founder retains a beneficial <i>reversionary</i> interest in the capital of a property or other asset to retain for their own continuing use.			x		
The gift consists only of the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of years, or even for life) in favour of the founder (or another member of their family) as tenant.			x		
A foundation distributes a (small) part of its income to the founder or their family.			x		

12. Distributions and timely disbursement

a) Are foundations allowed to spend down their endowment?

According to the NPLEA, there is no requirement regarding capital for setting up a foundation. Reserves of the budget of the foundation can be treated as capital and can be spent as the managing body of the foundation decides.

b) Are they allowed to be set up for a limited period of time only? If so, is there a minimum length of time for which the foundation must exist?

Yes. There is no minimum length.

c) Does the **civil law** and/or **tax law** of your country require a foundation to spend its income (or a certain amount of the income) within a certain period of time, e.g. within the next financial year? If yes, is there a specific amount/percentage of the income that must be spent within this time? Which resources would be considered as income? E.g. would donations/contributions designated for building up the endowment be included in/excluded from the income to be spent? What expenditures would count towards the disbursement of income (e.g. would administration costs be included/excluded)?

No.

d) Does the **civil law** and/or **tax law** of your country require a foundation to spend a percentage of its overall assets in the form of a “pay-out rule”?

No.

Example: Does the **civil law** of your country require the following of a public-benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public-benefit purpose of the foundation.	x				

Example: Does the **tax law** of your country require the following of a public-benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public-benefit purpose of the foundation.	x				

13. Are activities abroad in another country compatible with the public-benefit tax status?

Yes.

14. Can public-benefit organisations with a tax-exempt status also support/give grants to for-profit organisations (such as a small green start-up)?

Yes.

15. Corporate income tax treatment. How are the following types of income treated for corporate income tax purposes? Are they taxable or exempt?

a) Grants and donations

According to the Law for Local Taxes and Fees (LLTF), donations made and received by public benefit organisations are exempt from tax. Thus, foundations registered for pursuing activities for public benefit purposes are tax-exempt for donations they receive. However, the tax is due if the property received is transferred and the transaction is not consistent with the statutory purposes for which the organisation was established.

b) Investment income (asset administration)

- Interest from fixed rate bonds
- Equities
- Income from leasing of a property that belongs to the foundation

Income from interest on bank deposits is not taxed as long as the funds deposited come from non-profit activity. If it comes from for-profit activity it is taxed at the standard corporate tax rate.

Income from sale of shares on a regulated Bulgarian market is tax-exempted.

Dividends are taxed at a rate of 5%.

Capital gains are generally not tax-exempt, thus 10% profit tax is due.

c) Economic activities (related/unrelated)

- Income from running a hospital/museum/opera
- Income from producing/selling books (e.g. art books sold by a cultural foundation)
- Income from running a bookshop inside a museum/opera run by the foundation
- Income from running a café in the hospital/museum run by the foundation
- Income from selling merchandise (activity not related to the pursuance of the public-benefit purpose)

- Income from intellectual property (e.g. royalties and licence fees)

According to the Law on Corporate Income Tax (LCIT), legal entities with non-profit purposes are taxable if they perform economic activity.

According to the LCIT, legal entities which are not traders, including organisations on state budget subsidies and religious organisations, shall be taxed for profits received from commercial transactions in accordance with Art.1 of the Commercial Code, including the leasing of movable or immovable property. If non-profit legal entities carry out business activities, they shall pay corporate income tax at the same rate as commercial organisations (10%). These provisions fully apply to foundations as one of the two types of non-profit legal entities according to Bulgarian legislation. There is no differentiation with regard to taxation based on whether the economic activity is related or not. Under the law, NGOs are allowed to carry out related economic activity only.

- d) Income deriving from grant expenditure towards public-benefit purpose/programme activities (such as loans, guarantees, equities)?

The important thing is whether the income is considered to be from non-profit or from commercial activity. If from non-profit activity, it is not taxed. That is why grants received are not taxed. However, interest from a loan might be considered an economic activity and taxed accordingly.

- e) Is major shareholding in a business undertaking considered as an economic activity and taxed accordingly?

Income from shareholding is subject to a dividends tax (5%), which is withheld at the source.

16. Are capital gains subject to tax? If so, are they liable to corporate income tax or to a separate tax?

Capital gains are not treated differently than shareholding income.

17. Does any kind of value added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations exist in your country?

Non-profit legal entities, including foundations, are taxable persons according to the Law on Value Added Tax (LVAT), and they pay VAT at the same rate as commercial organisations. The rate of VAT in Bulgaria is 20% on all goods and services (except for some tourist services where the rate is 7%). Legal entities must register and charge VAT if their independent economic activity results in turnover exceeding 50,000 BGN (~ €25,000). A non-profit legal entity has the right to a tax refund after registration as a taxable person under LVAT.

The LVAT, however, defines some transactions as tax-exempt. These categories are similar to the categories in the 6th VAT Directive.

18. Is capital tax levied on the value of assets, where applicable?

N/A

19. Are there taxes on the transfer/ sale of assets by foundations?

There are specific taxes for transfers of real estate. Other transfers of assets are generally not taxed. Only in the case of liquidation of the foundation (or any other legal entity) is a 7% withholding tax due.

20. Are there any other taxes to which public-benefit foundations are subject to (e.g. real property tax)?

Yes, there are local taxes determined by the municipality, including real estate tax, tax on own vehicles etc.

21. Can a foreign foundation (EU and other) get the same tax benefits as a national foundation according to the wording of the tax law in your country? If yes, under what conditions? If

they have to fulfil exactly the same requirements as locally-based public-benefit foundations, please refer to above but indicate which documents need to be provided and translated:

Yes, they are treated as a national foundation.

- Statutes (translation required?)
- Last annual financial report (translation required?)
- Documents providing evidence for certain tax law requirements e.g. that income was actually spent for public-benefit purposes, which may not be required by the organisation's country of seat but are required according to the legislation of the country from which tax benefits are sought?
- Other

22. Does your country have signed bi-lateral tax treaties, which provide for reciprocal tax treatment of public-benefit organisations? If so, with which countries?

Not specifically as regards the treatment of public-benefit organisations.

23. Does your country apply withholding tax to the income from local investments held by domestic and/or foreign-based foundations? If so, can domestic or foreign-based foundations reclaim all or part of the withholding tax under domestic law?

According to the Law on local taxes and fees the exemption from inheritance and gift tax offered to the Bulgarian Red Cross, the registered religions in the country, the community cultural centres and the other non-profit legal entities except the non-profit legal entities acting for private profit, will be applicable also in cases where the property is inherited by identical or similar entities, established in another Member State of the European Union or a state party to the Agreement on the European Economic Area. The exemption in such cases will be made provided that the person provides an official document certifying his status or capacity, issued or certified by the competent authority of the relevant state, and its legalised translation in Bulgarian.

III. Tax treatment of donors of foundations

1. Is there a system of tax credit or tax deduction or other mechanisms such as tax allocation systems or matching grants?

Tax deduction.

2. Tax treatment of individual donors

a) What tax relief is provided for individual donors? Is there a minimum and/or a ceiling to a contribution on which tax incentives can be claimed?

b) Which assets qualify for tax deductibility (e.g. cash, real estate, in kind or other)

According to the Law on Physical Persons' Income Taxation (LPPIT) (in force since 1 January 2007) individuals working under a labour contract, self-employed individuals, or people receiving income from rent, annuities, or leases are entitled to deduct donations from their taxable income. The donations must be made in favour of recipients, exhaustively listed in the law, among which are public-benefit organisations registered in the Central Registry, including foundations pursuing public-benefit purposes.

The amount of the deduction varies between 5% and 50% of the income depending on the donation recipient. It is made after deducting the activity expenses and certain insurance contributions.

1. The tax deduction is up to 5% of the profit before taxation if the donation is made in favour of:

a) Healthcare establishments.

b) Medical treatment establishments.

c) Social services for residential care under the Social Services Act, and the Social Support Agency, and the Social Protection Fund with the Minister of Labour and Social Policy.

d) Public nurseries, kindergartens, schools, higher schools and academies.

e) State-budget enterprises within the meaning of the Accountancy Act.

f) Religions registered within the country.

g) Specialised enterprises or cooperative societies of persons with disabilities, which are entered in the Register referred to in Art. 83 of the Persons with Disabilities Act, and in favour of the Agency for Persons with Disabilities.

h) The Bulgarian Red Cross.

i) Cultural institutions, library clubs and for the purpose of cultural, educational or scientific exchange under an international treaty, the Republic of Bulgaria being a party thereto.

j) Not-for-profit legal entities with public-benefit statute, with the exception of those organisations which support culture within the meaning of the Arts Patronage Act.

k) The Power Efficiency and Renewable Sources Fund.

l) Communes for treatment of drug addicts.

m) The United Nations Children's Fund (UNICEF).

2. Up to 15% for donations in favour of culture, according to the Patronage Act

3. Up to 50% where the donation is in favour of the National Health Insurance Fund, for activities related to the treatment of children funded by transfers from the budget of the Ministry of Health and/or the "Assisted Reproduction" Center.

The total amount of the tax relief for donations may not exceed 65% of the aggregate of the annual bases of taxation referred above. In those cases where the donation is in a non-pecuniary form, the amount thereof shall be the price of acquisition shown in the donor's documents of acquisition of the object of donation on condition that the acquisition took place within three months prior to the date of donation. Otherwise the amount of donation shall be the market price as at the date of granting the object of donation.

The date of making the donation shall be the date on which the donee acquires the donation.

Tax relief for donees shall also be applied to donations made in favour of persons, identical or similar to the ones specified above, established in another Member State of the European Union or a state party to the Agreement on the European Economic Area.

3. Tax treatment of corporate donors

- a) What tax relief is provided for corporate donors? Is there a minimum and/or a ceiling to a contribution on which tax incentives can be claimed?
- b) Which assets qualify for tax deductibility? (e.g. cash, real estate, in kind, or other)
 1. The tax deduction is up to 10% of the profit before taxation if the donation is made in favour of:
 - a) Healthcare establishments.
 - b) Medical treatment establishments.
 - c) Social services for residential care under the Social Services Act, and the Social Support Agency, and the Social Protection Fund with the Minister of Labour and Social Policy.
 - d) Public nurseries, kindergartens, schools, higher schools and academies.
 - e) State-budget enterprises within the meaning of the Accountancy Act.
 - f) Religions registered within the country.
 - g) Specialised enterprises or cooperative societies of persons with disabilities, which are entered in the Register referred to in Art. 83 of the Persons with Disabilities Act, and in favour of the Agency for Persons with Disabilities.
 - h) The Bulgarian Red Cross.
 - i) Cultural institutions, library clubs and for the purpose of cultural, educational or scientific exchange under an international treaty, the Republic of Bulgaria being a party thereto.
 - j) Not-for-profit legal entities with public-benefit statute, with the exception of those organisations which support culture within the meaning of the Arts Patronage Act.
 - k) The Power Efficiency and Renewable Sources Fund.
 - l) Communes for treatment of drug addicts.
 - m) The United Nations Children's Fund (UNICEF).
 - n) Social enterprises entered in the Register of Social Enterprises to carry out their social activities and/or to achieve their social goals.
 2. Up to 15% for donations in favour of culture, according to the Patronage Act.
 3. Up to 50% where the donation is in favour of the National Health Insurance Fund, for activities related to the treatment of children funded by transfers from the budget of the Ministry of Health and/or the "Assisted Reproduction" Center.

The total amount of the tax relief for donations may not exceed 65% of the aggregate of the annual bases of taxation referred above. In those cases where the donation is in a non-pecuniary form, the amount thereof shall be the price of acquisition shown in the donor's documents of acquisition of the object of donation on condition that the acquisition took place within three months prior to the date of donation. Otherwise the amount of donation shall be the market price as at the date of granting the object of donation.

The date of making the donation shall be the date on which the donee acquires the donation.

Tax relief for donees shall also be applied to donations made in favour of persons, identical or similar to the ones specified above, established in another Member State of the European Union or a state party to the Agreement on the European Economic Area.

4. Tax treatment of donations to non-resident public-benefit foundations: Do donors get the same tax incentive?

Yes, they are tax deductible in some cases, as described in the above questions. Art. 31 of the Corporate Income Taxation Act states:

Expenses of donations

Art. 31. (1) The accounting expenses of donations not exceeding 10% of the positive financial result (profit before taxation) shall be recognised for tax purposes in those cases where the donations have been made in favour of:

1. Healthcare establishments and medical treatment establishments.
2. (amend. - SG 51/11p amend. - SG 24/19, in force from 01.07.2020, amend. on entry into force - SG 101/19) Social or integrated health and social services for residential care under the Social Services Act, and the Social Support Agency, and the Social Protection Fund with the Minister of Labour and Social Policy (suppl. – SG 106/08, in force from 01.01.2009; amend. - SG 79/15, in force from 01.08.2016, revoked - SG 24/19, in force from 01.01.2020).
3. Public nurseries, kindergartens, schools, high schools and academies.
4. State-budget enterprises within the meaning of the [Accountancy Act](#).
5. Religions registered within the country.
6. (amend. – SG 105/18, in force from 01.01.2019) Specialised enterprises or cooperative societies of disabled persons, which are entered in the Register referred to in Art. 83 of the Persons with Disabilities Act, and the ones in favour of the disabled Persons Agency.
7. Disabled persons, and technical relief devices for them.
8. (amend. - SG 35/09, in force from 12.05.2009) Persons who have suffered damage in disastrous situations within the meaning of the [Disaster Protection Act](#), or the families thereof.
9. The Bulgarian Red Cross.
10. Low-income persons.
11. Disabled children or children who have no parents.
12. Cultural institutions, or for the purpose of cultural, educational or scientific exchange under an international treaty, the Republic of Bulgaria being a party thereto.
13. (amend. – SG 74/2016, in force from 01.01.2018) Not-for-profit legal entities with public-benefit statute, with the exception of those organisations which support culture within the meaning of the [Arts Patronage Act](#) (amend. – SG 32/09, in force from 01.01.2010; revoked – SG 68/13, in force from 01.01.2014)
14. (suppl. – SG 35/11, in force from 03.05.2011) The Power Efficiency and Renewable Sources Fund.
15. Communes for treatment of drug addicts, as well as in favour of drug addicts for the purpose of their medical treatment.
16. (new – SG 106/08, in force from 01.01.2009) The United Nations Children’s Fund (UNICEF).
17. (1) (new - SG 91/18, in force from 03.05.2019) Social enterprises entered in the Register of Social Enterprises to carry out their social activities and / or to achieve their social goals.
(2) (suppl. - SG 95/09, in force from 01.01.2010; amend. – SG 99/11, in force from 01.01.2012; amend. – SG 97/16, in force from 01.01.2017, amend. - SG 102/18, in force from 01.01.2019) The accounting expenses of donations in favour of the National Health Insurance Fund, for activities related to the treatment of children funded by transfers from the budget of the Ministry of Health and Centre for Assisted Reproduction, amounting to up to 50% of the profit before taxation shall be recognised for tax purposes.
(3) The aid provided freely under the conditions and in accordance with the procedure set forth in the Arts [Patronage Act](#) amounting to up to 15% of the profit before taxation shall be recognised for tax purposes.

(4) The expenses of donations of computers and their peripheral devices manufactured within one year prior to the date of donation, the latter being made in favour of Bulgarian schools, including higher-education ones, shall be recognised for tax purposes.

(5) The total amount of donation expenses recognised for tax purposes under paras. 1 through 4 may not exceed 65% of the accounting profit.

(6) The total expense of donation shall be unrecognised for tax purposes in those cases where those managers who grant it or those managers who dispose of it benefit from it, either directly or indirectly, or evidence is presented showing that the donation has not been received.

(7) (new – SG 32/09, in force from 01.01.2010) Paragraphs 1 through 6 may also apply to donations provided to persons identical to the ones specified in paras 1 through 4 or similar to them, who are citizens of or established in another Member State of the European Union, or a state party to the Agreement on the European Economic Area, provided that the person who made the donation, has an official legalised document certifying the status of the person receiving the donation, issued or verified by a competent authority of the respective foreign country, along with a translation in the Bulgarian language, carried out by a certified translator.

5. Other frameworks such as percentage law systems, whereby the donating tax payer may assign part of the tax due to a public-benefit organisation?

No.

6. What are the requirements that the donor must fulfil and/or what is the information they must provide in order to claim tax benefits? What information must donors provide to their tax authority in order to receive tax incentives for their donation (e.g. submitting details on the organisation they support: statutes, annual financial report, documents providing evidence for certain tax law requirements, for instance to show that income was actually spent for public-benefit purposes)?

The contract for the donation signed by donor and beneficiary, as well as a protocol for the accepted donation is required in the case of donations to public-benefit organisations.

7. Are there any different or additional requirements to be fulfilled when a donor is giving to a foreign-based foundation? What information must donors to foreign-based organisations provide in order to receive tax incentives for their donation (e.g. statutes, annual financial report, documents providing evidence for certain tax law requirements, for instance to show that income was actually spent for public-benefit purposes)? Are translations of documents required?

No, there are no different particular requirements for foreign-based donors.

8. Do donors get tax incentives when donations are done via specific tools such as:

- Requesting money in public (street, door-to-door)
- Via TV and radio campaigns
- Via sms
- Crowdfunding

Do they have to follow any kind of particular process? If so, which one?

All donations can be used for tax exemptions if there is a contract for the donation signed by donor and beneficiary, and a protocol for the accepted donation is also required. In the case of donations to public-benefit organisations. For the SMS donation, a certificate from the public-benefit organisation which has received the donation is required, as well as the invoices to prove that the payment has been done.

IV. Tax treatment of beneficiaries

(i.e. those receiving a grant or other benefit from a foundation)

1. Individuals: Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?

According to the Law for Local Taxes and Fees (LLTF), the following are exempt from donation tax:

The properties acquired by:

- The funds for support of people who have suffered from natural disasters and for preservation and restoration of historic and cultural heritage
- The grants for healing of citizens of a Member State of the European Union or another country party to the Agreement on the European Economic Area, as well as of technical auxiliary means for people with disabilities
- The grants with humanitarian objective to persons with reduced working ability of 50 to 100% and for socially disadvantaged citizen
- The donations for the non-profit legal persons obtaining subsidies from the central budget and the non-profit legal persons carrying out public-benefit activities for the received and submitted donations
- The usual gifts
- The property transferred gratuitously in implementation of an obligation ensuing from a law
- The grants in favour of public cultural centres
- The freely provided support under the conditions and order of the Arts Patronage Act

2. Legal entities: Is there any legal/fiscal framework for beneficiaries conducting economic activities so that they can be eligible for foundation funding? Are there any limitations on the economic activities of the beneficiaries?

According to the Law for Local Taxes and Fees (LLTF), properties acquired by the following are exempt from donation tax:

- The state and municipalities
- The Bulgarian Red Cross
- National represented organisations of people with disabilities and for people with disabilities
- The health establishment
- The legally registered creeds in the country regarding the properties

3. Are there any different or additional requirements that must be fulfilled by a beneficiary receiving funding from abroad?

No.

V. Gift and inheritance tax

- 1. Does gift and inheritance tax/transfer tax exist in your country and, if yes, who has to pay the tax in the case of a donation/legacy to a public-benefit organisation (the donor or the recipient organisation)?**

Yes.

- 2. What are the tax rates? Is there a preferential system for public-benefit organisations (PBOs)? Which PBOs qualify? Is there a difference according to the region or the legal status of the PBO?**

N/A

- 3. Is there a threshold (non-taxable amount) from gift and inheritance tax for donations/legacies to public-benefit organisations?**

Yes.

- 4. Is there a legal part of the estate that is reserved for certain protected heirs and which a donor cannot give to third parties?**

Yes, there is a reserved part. According to the Inheritance Act, when the legator leaves descendants, parents or a spouse, she/he cannot infringe on what constitutes their reserved portion of the inheritance with testamentary dispositions or with a grant.

According to Art. 29 of the Inheritance Act:

Art. 29. (1) The reserved portion of descendants (including the adopted), when the legator has not left her/his spouse, shall be: in case of one child and descendants from same – 1/2 and in case of two and more children or descendants from them – 2/3 of the possession of the legator.

(2) The reserved portion of the parents or only the outlived of them is 1/3.

(3) The reserved portion of the spouse is 1/2, when she/he inherits alone and 1/3 when the legator has also left parents. When the legator has left descendants and a spouse, the reserved part for the spouse is equal to the reserved part for each child. In this case, the disposable part in case of one child is equal to 1/3 and in case of two children is equal to 1/4, and in case of three and more children is equal to 1/6 of the inheritance.

- 5. What is the tax treatment (inheritance and gift tax) of legacies to non-resident public-benefit foundations?**

The inheritance tax is regulated in the Act on Local Taxes. Each heir (both by the power of intestacy or a beneficiary) is subject to an inheritance tax. The inheritance tax includes the inheritance assets that have been acquired both in Bulgaria and in other countries by Bulgarian citizens, as well as the assets of foreigners who reside in Bulgaria but have inherited in another country. Legatees and third parties are also liable to the tax if they acquired assets or any kind of privileges related to the death of the testator. The testator's spouses, children and ascendants remain tax-exempt.

The taxable persons must submit a tax declaration to the municipal authority within six months after the death of the testator. A declaration submitted by one heir at due date serves each co-heir as well. The taxable persons describe the acquired assets in their declaration by kind, location and estimated value. The procedure of estimating the value is described in Article 34 of the Act on Local Taxes. The tax burden is divided between the heirs according to the portions described above.

According to Article 36 of the act on local taxes and charges, the inheritance tax rates are fixed by a resolution of the municipal council for each group of heirs. The act prescribes the following rules:

- Brothers, sisters and their children: from 0.4 to 0.8 % for a succession over BGN 250,000 (~ €125,000);

- For persons other than those under point 1: from 3.3 to 6.6 % for a succession over BGN 250,000 (~ €125,000).

The inheritance tax is determined for each heir individually and must be paid within two months after the notification.

VI. Trends and developments

- 1. Are there current discussions about the question of whether cross-border activities of foundations or other non-profit organisations and their donors are protected by the fundamental freedoms of the EC Treaty? Have there been any changes to your country's legislation, resulting from the [Persche](#), [Stauffer](#), [Missionswerk](#) or other relevant ECJ judgments, or are changes being discussed? Any changes being discussed with regard to the free movement of trust structures resulting from the [Panayi Trust](#) and [Olsen and Others](#) cases?**

Yes, in 2008 and 2009 there were changes to the basic tax laws, widening the tax-exempt status of organisations in the EU.

- 2. Has the fight against terrorism and financial crime led to the introduction in recent years of new laws/rules affecting the foundation sector (e.g. implementation of EU Anti Money Laundering Directive, or reactions to recommendations of the Financial Action Task Force)? Has it for example become more difficult to:**

Yes, the AML Directive is fully implemented in Bulgaria and all its rules are applicable. See above.

- Set up a public-benefit foundation
- Obtain permission to transfer funds across borders
- If able to transfer of funds across borders, has the process become more burdensome administratively
- Open a new bank account
- Maintain a bank account
- Fund certain activities
- Fund certain regions/countries
- Fund certain organisations (please explain the reason - foreign funding restriction?)
- Report to authorities/deal with administration
- Other

- 3. Does the national law consider foundations as obliged entities as defined by the Anti-Money Laundering Directive?**

Yes.

- 4. Does the national law define/specify who is considered as a Beneficial Owner (BO) of a foundation?**

The AML Law requires declaration of actual ownership of any entity, as well as a complex check of the donations under particular circumstances, according to the internal rules of the NGO.

- 5. Does your country have a specific register for BO of legal entities/foundations or does the foundation/company/association register serve as a BO register?**

If another is not declared, the actual owner is considered the registered owner, or Beneficial Owner.

- 6. Are there any other recent trends or developments affecting the legal and fiscal environment for public-benefit foundations in your country such as one or more of the following?**

- a) Law revision in the pipeline
- b) Discussion about the role of supervisory authorities (civil law, charity regulator, tax authority) and collaboration among them? Decentralisation or centralisation of supervisory structures? Use of watchdog/rating agencies?

- c) Tendency towards more transparency requirements?
- d) Tendency towards more self-regulation? Self-regulation replacing hard law regulation?
- e) Tendency to use alternative forms to classic public-benefit foundations
- f) Other?

In July 2020 a draft bill for changes and amendments to the Non-profit Legal Entities Act was submitted by a group of members of the Bulgarian Parliament.

The suggested amendments foresee an obligation for the non-profit legal entities registered as for the public benefit to declare every income received from a company or a person located in a foreign country, which is over the amount of 1,000 BGN (~ €500). Along with this declaration the NGOs have to submit a proof for the source of the money as well as other documentation within a seven-day period. The declarations will be listed in a special Register of the foreign funded NGOs. Furthermore, the amendments introduce a possibility for full financial investigation of an NGO and its declared incomes by the Public Financial Inspection Agency, which is responsible for the public budget and currently has the competences to investigate only public budget organisations, public entities or private entities with the participation of the municipality or the state, as well as beneficiaries of state aid. Therefore, the present competences of this agency are focused not on private incomes of private entities but are limited only to matters concerning public financing.

The amendments further suggest severe consequences for NGOs, which can range from temporary suspension of the “public-benefit” status to termination of an NGO on the grounds of contradiction to the Constitution, the laws and the good morals of Bulgaria.

Additionally, the bill suggests that the management and the members of management bodies of NGOs must be subject to the same responsibilities as the high state officials pursuant to the Act on counteracting corruption and on seizure of illegally acquired property. In other words the bill equates participation in the management of an NGO to the highest administrative positions in the government of the country (such as the President and the Vice President, Members of the Parliament, the Prime Minister, Deputy Prime Ministers, Ministers, MEPs of the EU Parliament from the Republic of Bulgaria, etc.), thus establishing an extreme level of responsibility of private persons.

The bill also introduces limitations to the newly formed Civil Society Development Council, which was set up as a consultative body to the Council of Ministers with the main purpose to support the development and implementation of policies and activities aiming at strengthening the civil society in Bulgaria.

It should be pointed out that under the current legal framework, NGOs already have broad obligations to declare their income and transactions before the tax authorities. Additional to these obligations some NGOs even now are reporting the funds received from abroad on a quarterly basis to the Bulgarian National Bank upon request from the Bank. Therefore, the suggested changes and amendments are clearly discriminatory, disproportionate and unconstitutional. Moreover, our worries are related to the fact that the formulation of the limitations is so vague that it opens the door for a very broad interpretation of the wording “foreign country and foreign person”. It can, in fact, limit any foreign funding of NGOs in Bulgaria, jeopardising the whole civil society sector.

7. Public fundraising: Are there any specific laws that regulate fundraising and do they affect foundations?

No, there are no specific regulations regarding fundraising.

VII. Further information

Useful contacts

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Selected law texts online

<http://capital-audit.bg/useful/corporate-income-tax-act/?lang=en>

https://webcache.googleusercontent.com/search?q=cache:feQwyQEJ_PYJ:https://www.minfin.bg/document/1911:1+&cd=4&hl=en&ct=clnk&gl=bg

<https://www.lex.bg/laws/ldoc/2134942720>

<https://lex.bg/bg/laws/ldoc/2135514206>

<https://www.lex.bg/laws/ldoc/2135538631>

VIII.About

Philanthropy Advocacy

The Dafne and EFC joint advocacy project “Philanthropy Advocacy” acts as a monitoring, legal analysis and policy engagement hub for European philanthropy. Its main objective is to shape the national, European and international legislative environment by implementing the European advocacy roadmap for a Single Market for Philanthropy.

www.philanthropyadvocacy.eu

Donors and Foundations Networks in Europe (Dafne)

Dafne brings together 30 national associations from 28 countries across Europe, representing over 10,000 public-benefit foundations, big and small, who want to make a difference in society. We have created an alliance for collaboration across philanthropy networks in Europe to address big philanthropy questions of our time in a coordinated and effective manner. We lead, strengthen and build the field for the common good in Europe. We are involved in four key areas: advocacy, peer exchange, communications and research. Our work is needs-based and future-oriented. We value ideas over hierarchy and believe in a truly collaborative approach.

www.dafne-online.eu

European Foundation Centre (EFC)

As a leading platform for philanthropy in Europe, the EFC works to strengthen the sector and make the case for institutional philanthropy as a formidable means of effecting change. We believe institutional philanthropy has a unique, crucial and timely role to play in meeting the critical challenges societies face. Working closely with our members, a dynamic network of strategically-minded philanthropic organisations from more than 30 countries, we:

- Foster peer-learning by surfacing the expertise and experience within the sector
- Enhance collaboration by connecting people for exchange and joint action
- Advocate for favourable policy and regulatory environments for philanthropy
- Build a solid evidence base through knowledge and intelligence
- Raise the visibility of philanthropy’s value and impact

www.efc.be

**Donors and Foundations Networks in Europe AISBL (Dafne) and
European Foundation Centre AISBL (EFC)
2020**



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