

Study of the Legal Basis for Public Support for Cultural Projects, in Particular Festivals, at National and Local Level

SUMMARY

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Legal framework for supporting cultural projects, particularly festivals – at national level

Constitution of the Republic of Bulgaria

According to Article 23 of the Bulgarian Constitution, the state creates conditions for free development of the arts and supports them; the state arranges and provides for the protection of national cultural heritage. As the Constitutional Court ruled in 2011, Art. 23 establishes an obligation for the state regarding the development of art in Bulgaria; it requires an active behavior by the State and obliges the state to develop specific policies; the financial condition of the state itself cannot justify a refusal to implement these policies.

Article 54 lays down the right of everyone to benefit from the national and universal cultural values, to develop his or her culture; the freedom of artistic creation is guaranteed by law.

The National Assembly adopts, amends, supplements and repeals laws and passes the state budget. Bulgaria is a country with local self-government; the municipality is the basic administrative territorial unit and it has its own budget, but the state supports the normal work of the municipalities. The state creates conditions for balanced development of all different regions of the country.

Law on Public Finances

This law regulates the budgetary framework, the general formation and structure of all public finances, incl. the budgetary procedure (state budget – the Council of Ministers, through the Minister of Finance and the primary administrators of budget, files the draft state budget to the National Assembly, and the latter adopts it with a separate law each year; budgets of municipalities – the mayors prepares and files the draft budget to the municipal council, and the latter adopts it according to the regulations of the Law of Public Finances; etc.), budgetary relations of the municipal budget with the central state budget (transfers from the state budget to a municipal budget include a subsidy for funding state-delegated activities; local activities; targeted subsidy for capital expenses; other targeted costs; financial compensations), the application of program-based budget formats by the National Assembly, mayors, ministers, state agencies.

Law on Non-Profit Legal Organizations

The state can support non-profit organizations registered as entities pursuing activities for public benefit; this includes also financial support under the conditions of different specific legislation.

Law on the Protection and Development of Culture

This is the basic special law that sets the legal framework for the funding of culture. Subject to this law are "cultural organizations": They are state or municipal cultural institutes or private cultural organization registered under the Commercial Law, the Law on Non-Profit Legal Organizations or the Law on Cooperatives, and their activity includes "creation, dissemination and preservation of "cultural values" (as defined in the Law on Cultural Heritage). Culture and art festival organizations fit into this definition in general.

If state or municipal cultural institute (would or could – according to its functions) organize a cultural project or a festival, there is theoretically no legal obstacle to finance it within the budget of the institute. The yearly subsidy amount for each municipal cultural institute cannot be lower than the previous year, regardless of the revenue generated by its activities; and costs should not be lower than those specified in the budget for the same purpose in the previous year.

Private cultural organizations participate on equal basis with other organizations in calls for applications and competitions for subsidy for creative projects and programs under the terms and conditions of this law.

According to this law, the Council of Ministers, upon a draft proposal by the Minister of Culture, adopts a 10-year National Strategy for Development of Culture. Bulgaria has no such strategy yet.

This law stipulates that the Ministry of Culture implements a policy for the protection and development of culture. This policy can be implemented through various means, such as: financial support for cultural initiatives, targeted programs, creative projects etc., after a call for proposals competition; funding cultural institutes – entirely or partially – from the state budget. In this regard, the functions of the specialized departments of the ministry are specified in its Rules of Order.

For the so called national cultural calendar (including national events and commemorations of events and prominent persons), funding is provided in the yearly budget of the Ministry of Culture.

Art. 24 of this law provides for a National Culture Fund (NCF) – a legal entity to the Minister of Culture. Its funding is awarded after a competition procedure, following terms and conditions determined by the Minister of Culture. What can be funded, for example: projects and programs with national, international and municipal importance for creating, conservation and distribution of works of art and culture, and for the protection and promotion of cultural heritage; support for

cultural events and initiatives with national and international importance; programs and projects for new experimental forms of cultural activity; involving more children and youth into cultural activities; stimulation of amateur art, etc. All cultural organizations and even individual artists can apply for funding under equal terms and conditions. The structure of NCF and the activities of its managing board are set in its Statute. Terms and conditions for conducting competitions and calls for proposals are described in a Regulation by the Ministry of Culture (NCF announces open calls for proposals according to an annual program, and conducts competitions for targeted financial support for programs and projects of great national cultural significance).

At municipal level, the municipal council can implement its policy for protection and development of culture through adopting decisions such as: conducting calls for proposals and competitions for cultural initiatives, creative projects and other targeted programs funded from the municipal budget. According to Art. 36 municipal councils can create a Municipal Culture Fund (see below).

Law on Community Centers (Chitalishte)

“Chitalishte” (a community center) is a traditional self-governing Bulgarian cultural and educational association that performs also state cultural and educational tasks; community centers under this special law are non-profit entities. They, among others, support amateur artistic creativity; organize parties, concerts, celebrations and youth activities etc. Associations of such community centers as well as the Union of Community Centers can organize initiatives such as festivals, community celebrations etc. Community centers raise funds from various sources, and they also receive subsidies from the state and municipal budgets. Community centers carry out an annual program for development of community center activities in the municipality, based on financially supported contracts with the mayor. They can also benefit from the opportunities for financial support provided by the Law on the Protection and Development of Culture.

The Law on Cultural Heritage

According to this law, funding for cultural heritage protection at municipal level can be provided through: Municipal Culture Funds as foreseen in the Law on the Protection and Development of Culture; targeted funds from the municipal budget for supporting activities of the mayor, who shall organize and coordinate the implementation of cultural heritage protection policy and shall support the promotion of cultural values. This law also regulates the operation and funding of museums, which theoretically could also organize festivals.

Film Industry Act

Executive Agency "National Film Centre" is an entity to the Minister of Culture – a legal body financed by funds from the state budget as well as revenues from its own activities. Through this agency, the state supports the film industry – by providing targeted funding in accordance with the Law on State Aid. State support is provided for projects in the field of production, promotion, distribution and exhibition of Bulgarian films as well as co-productions as defined in the law. The law describes the distribution of resources within the agency budget. As far as festivals are concerned: up to 5% are provided for funding the promotion of Bulgarian films at national and international film festivals, film weeks and panoramas of Bulgarian cinema, provided as targeted funding for promotional materials, film copies, subtitling and other costs related to film presentation. (10% of the budget is assigned for distribution and exhibition of Bulgarian and European films and co-productions; not less than 80% - for production of Bulgarian (debut) films and co-productions; up to 5% - for Bulgarian films connected to national events and commemorations of events and prominent

persons.) The agency itself also organizes festivals, programs and reviews of Bulgarian and foreign films in Bulgaria.

Art. 17 of the Law on Film Industry, which sets a structure and maximum amount for the subsidy the agency receives from the Ministry of Culture, was declared unconstitutional by the Constitutional Court. The reasons: The regulation that “the state – if possible – provides in the annual Law on the State Budget a subsidy for the agency, funds for its membership fees in international organizations and agency subsistence funding” – it is not consistent with the Constitution, as the creation of the agency and its existing legal commitments have already created a legal obligation for the state to fund the agency; furthermore, as stated above, Art. 23 of the Constitution establishes an obligation for the state regarding the development of Bulgarian art.

Law on Maecenas

It regulates the constellations when individuals and private legal entities support the creation, conservation and dissemination of cultural works. The state supports and encourages patrons/ Maecenas through tax, customs exemptions and other financial and economic incentives regulated in special laws. Furthermore, according to this law the state can organize a state lottery to support culture, following the terms and conditions of the Law on Gambling; at least 75% of its revenues shall be used for national culture funds created by law. This has not happened (yet).

Law on Artistic Funds

This is an old law from the time of communism, still in force. It regulates the “artistic funds” as entities to the artist unions (Union of Bulgarian Writers, Union of Bulgarian Actors, etc.). However, they do not allocate public funds (any more), even indirectly, as in 2003 the Supreme Administrative Court quashed an ordinance regulating that percentage of the state and municipal cultural institutions’ revenues should go into the artistic funds (which is not consistent with the Law on the Protection and Development of Culture).

Law on the “13 Centuries Bulgaria” National Endowment Fund

This endowment fund is a legal entity created under this special law. It aims to organize and support fundraising activities carried out by Bulgarian and foreign individuals and legal entities in various fields, including culture. His property is formed from various sources, including subsidy from the central budget. Its practice shows that there are cases of festivals being supported by the Endowment Fund, incl. with funds from its budget subsidy.

Legislation that regulates “indirect” public support for cultural projects

The Law on Radio and Television regulates, among others, the state-owned Bulgarian National Radio and Bulgarian National Television, which receive a subsidy from the state budget. The law is relevant as far as cultural projects, particularly festivals, could in some cases benefit from a partnership with these state media. According to the law, they can include for free in their news reports and information about events for which another operator has exclusive rights. They shall also support new Bulgarian productions through providing not less than 5%, respectively 10%, of the subsidy they receive from the state budget and the “Radio and TV” fund.

The Law on Copyright and Related Rights is relevant as far as the Law on Protection and Development of Culture refers to it, indicating that revenues from fines under this law go into the budget of the National Culture Fund.

The **Law on Corporate Income Tax** and the **Law on Income Tax of Individuals** provide for tax reliefs in cases of donations for culture institutes and organizations as well as support under the Law on Maecenas, among others.

The Law on Value Added Tax regulates a VAT rate of 20%. There are no exceptions in the field of culture and arts (only for accommodation services, the rate is 9%). Exempt from VAT is the sale of tickets by cultural organizations for a list of activities set in the law, incl. circus, music and stage performances, concerts; museums, galleries, theaters, etc. Special taxing arrangements are foreseen for supplies of works of art, collectors' items and antiques.

Legal framework of public support and funding – at the municipal level

Law on Local Government and Local Administration

Municipal councils adopt the own budget of the municipality, on the basis of its own revenues and subsidies from the state. Together with the Law on the Protection and Development of Culture, this law is the legal basis for the adoption of local cultural strategies as well as financial instruments in the field of culture. According to the Law on Local Government and Local Administration, municipal councils adopt and amend the annual budget of the municipality; adopt strategies, programs, development plans and decide on other issues of local importance – including culture; they also adopt decisions to dispose municipal property. There is no legal obstacle – and it is actually a regular practice – that on the basis of these legal powers municipal councils directly allocate funds to specific projects and initiatives.

Law on the Protection and Development of Culture

Municipalities also form and implement their policy for protection and development of culture. By law, the municipal council can adopt different resolutions in this field, for example in order to support the development of amateur art; to conduct competitions and calls for cultural initiatives, creative projects and other targeted programs funded from the municipal budget. Municipal councils regularly decide on the (co-)organization and (co-)funding of local festivals (Sofia Municipality is an exception in this regard).

Very few municipalities has created a municipal culture fund as defined in the law. Such funds could finance projects and programs in the field of culture; support cultural events; support amateur art etc. Municipal culture funds incorporate funding from different sources, including allocations from targeted programs and projects in the field of culture.

Regulation of the main instruments for cultural projects financial support in selected municipalities

Sofia

Sofia Culture Program was established in 2007 by a decision of the municipal council. It funds projects on a competitive basis. It allocates considerable financial resources. The municipal council adopts rules for its work as well as its annual priorities, topics, the maximum funding per project etc.

Only proven events whose last two editions were successfully realized in Sofia can apply for inclusion in the Calendar of cultural events of Sofia municipality. The total annual budget of the cultural calendar, the amount of funds under its sections ("Strategic Event", "Significant events", etc.), its priorities and the evaluation criteria are adopted annually by decisions of the municipal council. The classification of applying events under the sections of the cultural calendar is performed by a committee appointed by the mayor. The municipal council takes the final decision of approval.

The Fund for Innovation in Culture was established by decision of the Sofia municipal council in 2013. It is part of the structure of "Sofia Development Association" – an NGO established by the council which was coordinating the activities related to the candidature of Sofia for European Capital Culture in 2019. Pursuant to the Rules of the Fund, it grants funds on a competitive basis to artists, creative collectives, schools, nonprofit organizations and groups of citizens, according to annual priorities. Each year the managing board of Sofia Development Association adopts rules for funding.

Projects including (some) activities in the field of culture could receive support also under the grant "Europe" Program of Sofia Municipality (it generally supports civil society in the context of practices related to the membership of Bulgaria in the EU).

Plovdiv

Plovdiv will be European Capital of Culture in 2019.

An ordinance from October 2013 regulates the terms and conditions for financing projects and their inclusion in the municipal cultural calendar – on a competitive basis. The annual amount of funds for this purpose is defined in the decision of the municipal council, which approves the annual budget of the municipality.

The projects approved by a selection committee under this ordinance are included in the municipal calendar of cultural events, which is submitted to the municipal council for final approval. The cultural calendar includes also a variety of events and festivals organized and financed by the Municipality of Plovdiv.

Municipal Foundation "Plovdiv 2019" was established in 2011 by decision of the municipal council. It initiates and participates in different projects, but it has also the practice of announcing its own calls for cultural projects.

Varna

Municipal Culture Fund – Varna was founded in early 2014 by the municipal council. It is a fund under the Law on the Protection and Development of Culture. It operates on the basis of its Rules of Procedure and Guidelines for application adopted by the municipal council.

Festivals which are directly organized by the municipality are funded from the "normal" municipal budget for culture.

In the period 2011 – 2013, cultural projects were supported under the "Varna – Territory of Creativity" Program. Its rules of procedure and funding guidelines were adopted annually by the mayor. The municipal council decided on the calendar with different "international and local cultural events."

Burgas

Projects on competitive basis are funded under the Rules on terms and criteria for granting funds to co-finance cultural projects, adopted by a decision of the municipal council in 2013. It refers to projects outside the cultural calendar of the municipality, projects by independent organizations and freelance artists.

Together with its decision on the annual municipality budget, the municipal council adopts also the amount of funds for the 'municipal cultural program' (the cultural calendar).

Ruse

Projects on competitive basis are funded under the Rules on terms and conditions for funding projects in the field of arts and culture, adopted by a decision of the municipal council in 2010. Other events and projects are funded upon decisions of the municipal council. In 2012, the municipal council established a municipal foundation "Ruse – a City of Free Spirit". Each year the council adopts Guidelines for the foundation's activities and its Work program for the year. The foundation supports projects for events which go beyond traditional formats established in the cultural calendar of the Municipality of Ruse.

Veliko Turnovo

The situation is similar to Ruse, with the exception of the municipal foundation.