

Law Program

In 2016, the Law Program's efforts were focused on four main topics: countering organized crime and terrorist networks, judicial and regulatory reform, penitentiary reform, and fundamental rights.

- **Countering organized crime and terrorist networks.** CSD joined the international initiative *Understand the Dimensions of Organized Crime and Terrorist Networks for Developing Effective and Efficient Security Solutions for First-line-practitioners and Professionals* (TAKEDOWN). TAKEDOWN is a joint effort of 18 public institutions, research institutes and private companies from 13 countries aimed at creating new insights on organized crime and terrorist networks by using a multidimensional modelling approach including social, psychological, economic and cultural aspects as well as prevention activities and response approaches.
- **Judicial and regulatory reform.** CSD reiterated the need for an overall reform of the system of official registers in Bulgaria and in particular for streamlining the registration of non-profit legal entities and reducing the administrative burden stemming from registration procedures. Parallel to involvement in drafting the legislative amendments for transferring the register of non-profit legal entities from the courts to the Registry Agency, CSD experts published several studies on improving the operation of other registers containing data of such entities.
- **Penitentiary reform.** CSD continued to promote research-based solutions to the existing problems in the penitentiary system. A report on the situation of drug users in prison identifies existing gaps in law and practice and offers reform measures.
- **Fundamental rights.** As a member of the FRANET network of the EU Fundamental Rights Agency, CSD collected data and information for the Agency's comparative studies. Research and data collection included areas such as minimum age requirements in respect to the rights of the child, migration detention of children, fundamental rights safeguards and remedies related to the use of surveillance by intelligence services, protection of media professionals and incitement to hatred, rights of crime victims to have access to justice, rights of migrants and asylum seekers, and drivers and barriers for independent living of persons with disabilities.

I. Countering organised crime and terrorist networks

Organised crime and terrorist networks are a major challenge and many differ-

ent stakeholder groups are involved in creating awareness, preventing, identifying and intervening in case of risk or threat. To contribute to the better understanding of this phenomenon CSD



During the TAKEDOWN kick-off meeting in Vienna



joined the international initiative *Understand the Dimensions of Organized Crime and Terrorist Networks for Developing Effective and Efficient Security Solutions for First-line-practitioners and Professionals* (TAKEDOWN). TAKEDOWN is a joint effort of 18 public institutions, research institutes and private companies from 13 countries aimed at creating new insights on organized crime and terrorist networks by using a multidimensional modelling approach including social, psychological, economic and cultural aspects as well as prevention activities and response approaches.

During the initiative's kick-off meeting on 12-14 September 2016 in Vienna, Austria, representatives of all partner organizations discussed the overall planning of activities and the fundamental components of the research. Through

parallel discussion and brainstorming sessions, an effective distribution of the tasks for the early stages of the action was secured. The roles and responsibilities of each partner in the upcoming tasks were described and clarified, and the initial steps for producing the first outputs were formulated.

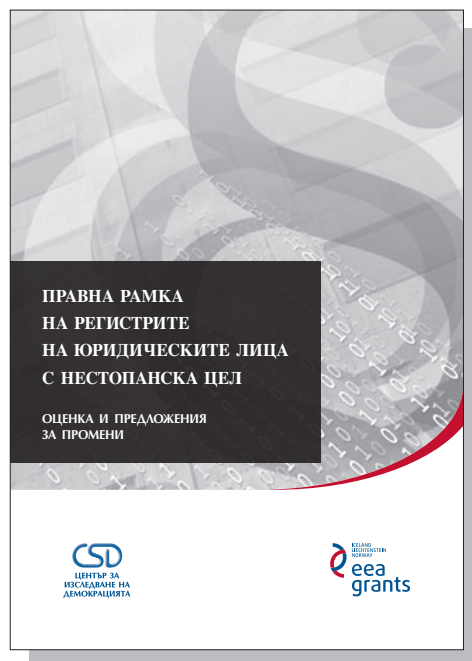
During the initial stages of the initiative, CSD took part in designing the template for the collection of stakeholders and key representatives of particular groups. The objective of collecting stakeholders is to compile a Europe-wide sample of informed respondents for the empirical research. Stakeholders include first-line-practitioners (teachers, social workers, healthcare workers and community police officers), researchers, policy makers, security software developers and law enforcement agencies. At a later stage, the collection of stakeholders and representatives will serve for validating the developed toolkits and digital platform.

II. Judicial and regulatory reform

CSD continued to contribute to the implementation of an overall **reform of the system of official registers** in Bulgaria. In 2016, the efforts in this area focused on **streamlining the registration of non-profit legal entities** and on advocating for the adoption of the legislative amendments submitted to the parliament in October 2015. The Law Program experts who were involved in the drafting process participated in a series of consultations with the relevant stakeholders and in several awareness and advocacy events. The Law Program Director Dr. Maria Yordanova also took part in the public hearing on the proposed changes, organised by the parliament on 8 March 2016.

Parallel to the discussions on the draft amendments, which concern mainly the court register of non-profit legal entities and the central register of those operating for the public benefit, CSD continued to explore the opportunities for expanding the reform and improve the operation of other existing registers. Following the review of the legal framework, published at the end of 2015, the Law Program experts made an assessment of the operation of different registers. The results of the assessment, which combined desk research, interviews with register operators and an online survey among non-profit legal entities, were published in the report *Assessment of the Operation of Existing Registers on Non-governmental Organizations in Bulgaria*.

Based on the research findings and the results of the assessment, the Law Program experts developed the brochure *Legal Framework of Registration of Non-profit Organizations: Assessment and Recommendations for Reform*. It offers detailed information about the different registers on non-profit legal entities, including registration procedures, mandatory re-



quirements, documentation, fees, accessibility of the registered data, etc. The brochure also includes a set of policy recommendations aimed at improving the existing system of registers, making the registered information more reliable and accessible, facilitating the exchange of data between different registers and decreasing the administrative burden on registered organizations.

The brochure was presented at a roundtable entitled *Improving the Registration of Non-profit Legal Entities*. (24 March 2016), with representatives of the government, the Ministry of Justice, the Registry Agency, NGOs, the IT sector and the media, who shared their experience with the current registration system and discussed the proposed reforms.

To generate support for these reforms among policy makers, CSD summarized the findings and recommendations from the brochure into a Policy Brief *Registration of Non-profit Organiza-*

“Improvement of registration of non-profit organizations (NPOs) is a necessary precondition for strengthening civil society and increasing its transparency and accountability. An easy and simple registration procedure, with no duplication of information and a functioning automatic exchange of data, would allow the civic sector to concentrate on its substantive priorities. The registration of NPOs and its subsequent maintenance determines to a large extent the relations between those organisations and the state authorities, and is an indicator of the will of decision makers to lighten excessive administrative burden and, thus, facilitate the civil sector’s development. The concept offered and the recommendations for legislative changes provide support to institutions in achieving that aim.”

Source: Legal Framework of Registration of Non-profit Organizations: Assessment and Recommendations for Reform.

tions: Legal Framework and Recommendations for Reform. The policy brief emphasizes on the conclusions that the legal framework governing the registration of non-profit organizations consists of too many different laws and regulations, which are often not aligned with each other, a significant part of the information is duplicated, and applicants

are often required to repeatedly present the same information and documents. It also offers a set of recommendations for legislative amendments and practical measures aimed at overcoming the existing deficiencies.

As a result of the significant contribution of civil society including the ef-



From left to right: Elena Markova, Executive Director of the Registry Agency, and Stefaniya Matarova, Deputy Executive Director of the Registry Agency sharing their views on the proposed transfer of the register on non-profit legal entities to the Registry Agency



not obliged to observe the transparency and accountability rules. The registration of NGOs in some of the other registers, particularly in those serving only information purposes, will also become unnecessary.

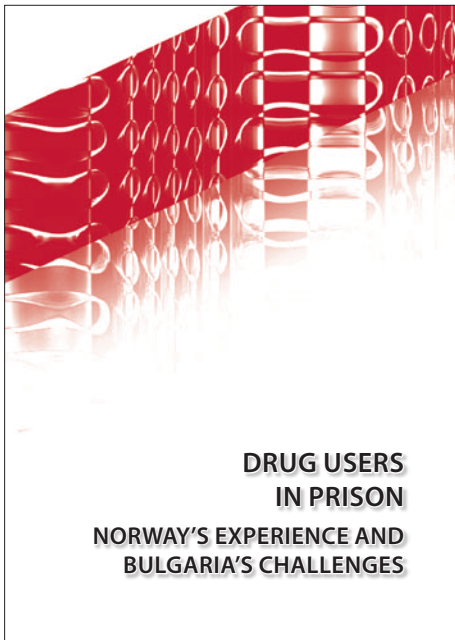
The new registration system will increase transparency and accountability of all NGOs. The information about their activities, management, funding and expenditures will become publicly accessible. At the same time, courts will be relieved from dealing with cases that are not complex, which will allow them to invest more resources on their main task to administer justice. The improvement of the legal framework will therefore benefit not only the users of the information but also the registered organisations and the society as a whole.

forts of CSD, the draft amendments were adopted in September 2016 and will enter into force on 1 January 2018. The reforms are expected to solve the most urgent problems in the registration of non-profit legal entities and to increase the transparency and accountability of the non-profit sector in the country. The transfer of registration of NGOs from the courts to the Registry Agency will result in faster procedures, electronic submission of documents, electronic services, lower fees and decreased administrative burden on NGOs. The establishment of a central electronic register of NPOs will make the registration of NGOs in the BULSTAT register no longer necessary. The same will apply for the registration of public-benefit NGOs in the Central Register of Public-Benefit NGOs at the Ministry of Justice. This will put an end to the existing dualism in the registration regime and the cases of organisations being registered as public benefit NPOs by the court, but not registered in the central register and thus

Members of the Law Program continued to provide expert assistance to the Ministry of Justice in drafting new legislation. The Law Program Director Dr. Maria Yordanova and the Research Fellow Miriana Ilcheva were part of the working group tasked with the drafting of amendments to the *Criminal Procedure Code* and the *Law on the European Arrest Warrant* aimed at transposing *Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty*. Dimitar Markov, Senior Analyst at the Law Program, participated in the working group on drafting amendments to the *Criminal Code* aimed at improving the legal provisions on a number of offences such as drug-related crime, smuggling and illegal migration, corruption in the private sector, etc.

III. Penitentiary reform

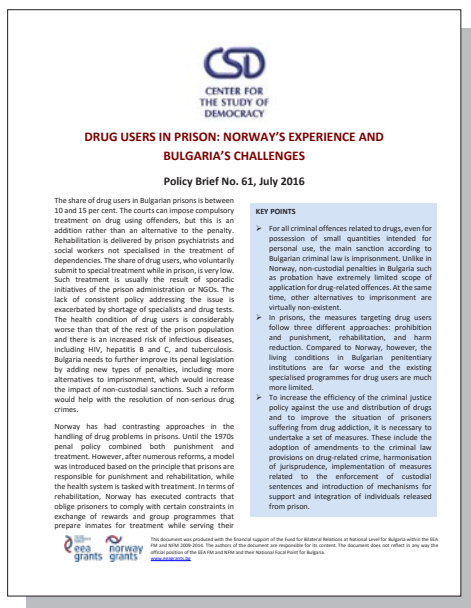
In the area of penitentiary reform the Law Program focused its efforts on helping Bulgarian authorities to handle deficits in the prison system with regards to a **particularly vulnerable group of offenders and inmates – drug users**. Under various estimates, drug users constitute between 10 and 15 % of the prison population. Both during their stay in prison and after release, drug users fall within a vacuum in regards to adequate treatment. To help address this problem, CSD in cooperation with the Department of Criminology and Sociology of Law of the University of Oslo explored the opportunities for transferring to Bulgaria promising practices from the Norwegian experience in dealing with drug users who have committed a criminal offence. A comprehensive assessment of the legal framework and the practical measures for drug offenders in Bulgaria was combined with an overview of the Norwegian approach.



The findings of the research were published in the report *Drug Users in Prison: Norway's Experience and Bulgaria's Challenges*. The report offers detailed analysis of the policies on drug use in Bulgaria and Norway, the criminal law provisions and case law on drug-related crime, the alternatives to imprisonment for drug users and the available measures for drug users in prison. Annexed to the report is an overview of measures and practices from other countries. Based on the results of the analysis, the report offers a set of policy recommendations for improving the legal framework of drug-related crime and for better treatment of drug offenders sentenced to imprisonment in Bulgaria.

To further encourage the debate, CSD brought together the relevant stakeholders at a round table discussion *Punishment vs. Treatment: The Situation of Drug Users in Prison*. Professor Hedda Giertsen and Ida Nafstad from the Department of Criminology and Sociology of Law at the University of Oslo talked about the evolution of drug policies in Norway and discussed the criminal prosecution of drug offenders. During the discussions, officials from Execution of Penalties Directorate General of the Ministry of Justice, experts from the National Addiction Center, judges, public prosecutors, lawyers, academics and representatives of NGOs shared their experience and debated on the possibilities for addressing the identified gaps. Among the main unresolved problems to which participants pointed out were the lack of accurate statistics on drug users in prison, the inability to serve part of the sentence in an institution for drug users outside prison, and the lack of mechanisms to encourage inmates undergoing therapy in prison to continue the treatment after release.

To bring the research findings and the policy recommendations to the atten-



tion of policy makers, the results of the analysis together with the proposed reforms and measures were summarized in the Policy Brief *Drug users in prison: Norway's experience and Bulgaria's challenges*. The policy brief includes an ex-

tended list of policy recommendations, some of which were suggested by participants at the round table discussion. It was presented to senior representatives of the key stakeholders to enable them to make better informed decisions when designing and implementing policies related to drug offenders and drug-related crime.

In 2016, a collection of country reports on the **penal policies on drug-related crime** was published by the Greek association Diogenis under the title *Sentencing of Drug Offenders: Legislators' Policy and the Practice of the Courts in Southeast Europe*. The book includes a comparative report and country-by-country overview covering seven countries from Southeast Europe. The country report on Bulgaria, authored by the Law Program experts Dimitar Markov and Maria Doichinova, gives an overview of the national legislative policy on drugs, the crime rates of drug-related offences on macro (state) and micro (court) level, and the individualization of imposed sanctions. It also offers proposals for future amendments



From left to right: Professor Hedda Giertsen of the Department of Criminology and Sociology of Law at the University of Oslo (Norway) and Dr. Maria Yordanova, Director of the Law Program of the Center for the Study of Democracy during the round table discussion on drug users in prison

of legislative drug policy and court sentencing practice.

IV. Fundamental rights

In 2016, the Law Program, together with the Sociological Program, continued to explore the **role of the civic sector as a guarantee for equal rights of four vulnerable groups** – foreigners seeking international protection, prisoners, victims of human trafficking and victims' domestic violence. Active online presence of the research findings and practical measures proposed was ensured by dedicating a special section on the CSD website and a Facebook group to the initiative.

The Law Program research team continued its dedicated meetings with state institutions and NGOs to discuss its practical ideas for improving the co-operation of decision makers and civil society in supporting vulnerable groups.

Stakeholders were represented on expert, as well as managerial level, and gave valuable insights into the practical realities of working with prisoners, migrants and victims of crime and violence, and especially with children from these groups. As a last formal round of consultations, a workshop was held on 25 February 2016, entitled *Civil Society in Support of Vulnerable Groups*. A number of new developments were discussed, such as the update of the national referral mechanism on victims of trafficking and the new regulations on public consultations and impact assessment of legislation, where NGOs can take an active part. Participants emphasized the need of sustainable financing and the role of NGOs as mediators, especially in the education, social work and reintegration of prisoners. CSD experts suggested that the state should assess the resources needed to support vulnerable groups and identify cases where care could be delegated to NGOs.



Civil Society in Support of Vulnerable Groups Workshop



From left to right: Commissioner Dr. Blagorodna Makeva and Dr. Maria Yordanova at the conference Participation of the Civil Society in Supporting Vulnerable Groups

The *Concept for More Effective Civic Participation in Supporting Vulnerable Groups* summarizes the recommendations for enhancing the involvement of civil society organizations in assisting vulnerable groups. It deliberated on the intensity of co-operation among stakeholders in regards to the communities under consideration, the means to enhance co-ordination of institutions and organizations on different levels, and NGO participation in law making and policy formulation. Mechanisms were recommended for collection of data under unified criteria, elaboration of co-ordination instruments and legislative steps to strengthen NGOs' position in legislative working groups and various consultative bodies. Concrete reform proposals were put forward for the penitentiary system, the mechanisms for protection of domestic violence and human trafficking victims, and the infrastructure dealing with foreigners in need of international protection. A roadmap on legislative and practical



measures to support the four target vulnerable groups in their relation-

ships with institutions was appended to the concept.

The concept was presented at a conference *Participation of the Civil Society in Supporting Vulnerable Groups* held on 21 April 2016 with the participation of institutions and NGOs, magistrates and attorneys. In her opening remarks Dr. Blagorodna Makeva, deputy director of the National Police General Directorate with the Ministry of the Interior, emphasized the links between the work of NGOs in supporting vulnerable groups and the functions and initiatives of the Interior Ministry. Dr. Makeva noted the need to train institutional representatives on the vulnerabilities of various communities and to collect data under unified criteria. Denitsa Sacheva, NGO expert (later appointed as deputy minister of labour and social policy), elaborated on the necessity to store and build upon the non-governmental and volunteer experience gathered, to exchange information, to have mutual empowerment of institutions and NGOs and diversified financing. CSD experts, magistrates and NGO activists presented latest developments, such as some proposed amendments in the legislation on execution of penalties, typical problems faced by foreigners seeking international protection, current problems of victims of crime and the impending ratification of the Istanbul Convention.

The Law Program also prepared four **memoranda with recommendations** to the various stakeholders, involved in improving the status of each of the four vulnerable groups. The documents contained various proposals of decision makers, practitioners and civil society organizations and were widely distributed among relevant institutions and civil society actors.

CSD findings on the co-operation of decision makers and NGOs in support

of vulnerable groups were presented at two policy fora. Research fellow Miriana Ilcheva took part in a panel on the role of civil society, volunteerism, humanitarianism and political action at the international conference *Migration Challenges in Southeast Europe: Policy Options for Building a Strong and Free Europe*, which took place on 7-8 April 2016 at the American University in Bulgaria. CSD conclusions were also included in the conference's final document. Findings on foreigners in need of international protection were also presented in a forum with the Conference of INGOs with the Council of Europe, which took place on 17 May 2016 in Sofia.



In line with its long-term fundamental rights research priority, in 2016 CSD continued exploring the **realities of free movement from the viewpoint of young Europeans** who exercise or plan to exercise this right within the European Union. As part of the pan-European initiative *On the Move*, the CSD research team conducted interviews with young Bulgarians wishing to leave Bulgaria or having returned to the country, as well as policy discussions with the Administration of the President of Bulgaria, the State Agency for Bulgarians Abroad, the Ministry of Youth and Sports and several NGOs active in the area. The resulting country report focused on the trends of young Bulgarians to move across Europe and the push and pull factors justifying their routes. Relevant policies and institutional initiatives were also discussed in detail. The Center's experts took part in preparing an analysis of individual experiences of young Europeans moving

throughout the continent, cross-country reports and a comparative report with recommendations to national and EU stakeholders.

The year 2016 saw a new expansion in the cross-border dimension of CSD's long-term research and advocacy focus on the **improvement of status of victims of crime and violence**. In an initiative on developing EU law-compatible practices on the identification, assessment and referral of victims, involving a partnership from six EU Member States, the Center's experts collected the opinions of magistrates, police officers, social and child protection workers, as well as medical specialists, on dimensions of supporting victims in the criminal process and in their treatment and reintegration in society. The compatibility of national law and practice with EU norms was assessed via a special checklist. Legislative and practical gaps were pointed out to serve as basis for trainings to be delivered to various stakeholders in the following year.

Law Program experts took an active part in two initiatives of the Center's Sociological Program related to **forced return of third country nationals** and a national study on **domestic and gender based violence** and elaboration of the victim support model. Opinions were given on relevant legislative norms and legal expertise was provided in the elaboration of methodologies, guidelines and policy recommendations.

As a member of the FRANET multidisciplinary network of the **EU Agency for Fundamental Rights (FRA)** CSD continued to research different aspects of fundamental rights in Bulgaria. In addition to the contribution to FRA's annual report on fundamental rights in the EU, in 2016 CSD produced studies on the minimum age requirements in

respect to the rights of the child, migration detention of children, fundamental rights safeguards and remedies related to the use of surveillance by intelligence services, protection of media professionals and incitement to hatred, and rights of crime victims to have access to justice.

In the context of the migration crisis, throughout the year CSD delivered to FRA monthly data collection reports on the migration situation in Bulgaria. The reports were compiled on the basis of regular interviews with stakeholders and included information on the number and profile of new arrivals, criminal proceedings against migrants and smugglers, reception conditions and detention, responses in law, policy and practice, social response and hate crime incidents. Since March 2016, the monthly reports were accompanied by focus reports on specific issues, such as healthcare, human trafficking, gender, impact on local communities, people with disabilities, family reunification, and separated children. The reports from all countries participating in the monthly data collection exercise are published on the [FRA website](#).

Within the framework of FRANET, CSD explored the drivers and barriers related to the transition from institutional care to community-based support of persons with disabilities. The work is a follow-up to the data collection report on independent living of persons with disabilities, prepared by CSD in 2015. A series of face-to-face interviews and focus groups with national and local level policy makers, social service providers, first-line practitioners and persons with disabilities were done in seven different localities (Sofia, Dobrich, Stara Zagora, Lovech, Sandanski, Plovdiv and Vidin). The next stage of the research, planned for 2017, will take place in only one locality (Plovdiv) and will focus on

in-depth case studies and validation of findings.

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The Law Program continued to be actively involved in CSD's work in the area of good governance and anti-corruption through:

- Contribution to CSD's annual Corruption Assessment Report *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*;
- Development, in cooperation with experts from the Economic Program and the Sociological Program, of an anti-corruption plan for the Bulgarian Ministry of Education and Science;
- Research and data collection within the framework of the Local Research Correspondents on Corruption (LRCC) Network. In addition to their contribution to the reports and periodic updates, Law Program experts delivered a comparative overview of the two draft anti-corruption laws developed by the government;
- Participation in the [second annual meeting of the Southeast Europe Coalition on Whistleblower Protection](#). The event, organized by the Regional Anti-corruption Initiative and Blueprint for Free Speech with the support of the Regional Cooperation Council, took place in Zagreb on 14 November 2016 and brought together civil society organizations, public-interest activists and investigative journalists from the countries in Southeast Europe. The Law Program Director Maria Yordanova presented the status and outlook for the legal regulation of filing alerts for corruption and whistle-blower protection in Bulgaria. CSD joined the Southeast Europe Coalition on Whistleblower Protection in 2016.
- Peer review of the study *Right to a Reasoned Judgment: Practice of the European Court of Human Rights*. The study was developed in the framework of the *Initiative for Open Judiciary* and is aimed to support democratization and EU integration of Montenegro by empowering civil society to actively take part in judiciary reform. The initiative is a joint effort of CSD and civil society organizations from Montenegro and Serbia.

The Law Program Director Dr. Maria Yordanova took part in the round table discussion *Countering Extortion Racketeering in Bulgaria: Examining the Evidence and Devising Appropriate Measures*, organized by the Center's Security Program on 27 October 2016. In her presentation, Dr. Yordanova introduced the general legislative framework for fighting organised crime, focusing in particular on the protected witness. She outlined a number of recommendations for improving the effectiveness of the use of protected witnesses and reviewed the possibilities of introducing promising practices from other countries, such as the so-called 'collaborator of justice'.

At the invitation of the Institute for Global Leadership, Dr. Maria Yordanova participated in the 31st Annual Norris and Margery Bendetson EPIIC International Symposium on *Europe in Turmoil* which was held at Tufts University (Boston) on 18-21 February 2016. She took part in the panel titled "Europe in the Global Order" where she delivered an Op-Ed on *The Role of the EU in international cyber policy as part of the future global order*. She also made a presentation on *The Role of the EU in safeguarding fundamental rights* and joined the discussion in a breakout session on *Europe and Human Rights* led by Erin Kelly, an Associate Professor of Philosophy at Tufts University.