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BULGARIA

THE CASE OF DIRECT PARTICIPATION IN LAW ENFORCEMENT BY THE SMOKE-FREE BULGARIA CITIZENS' INITIATIVE



BlueLink.net

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Introduction

Enforcement is the usual Achilles' heel of almost any legislation passed in Bulgaria over the past two decades. This is why when the post-socialist country's Prime Minister Boyko Borissov said in 2010 that a complete legislative ban on tobacco smoking in public could never be enforced in Bulgaria, few questioned his judgment. A former police general and security guard, Borissov possesses solid experience with law enforcement (or the lack of it), so an existing legislative ban on smoking in public was quickly scrapped by a majority of members of parliament (MPs), some of whom held stakes in tobacco trade companies.

But to their surprise, there were those few who disagreed and demanded that the non-smoking ban should be restored and implemented. A little-known group of citizens, named BezDim (from "Smoke-free Bulgaria"), offered to personally and actively participate in the law's enforcement. To get their messages through, the ban's supporters pooled their time and money and held creative rallies in Sofia. Their group used ordinary email, Facebook, Twitter and a WordPress-powered blog¹ to communicate to the public and the media. But their ambition to participate in the actual implementation of the law required even more sophisticated IT tools.

Policy and political background

To perceive the magnitude of BezDim's proposal for direct participation in law enforcement, one needs to know that respect for the rule of law is historically weak in Bulgaria. The control of tobacco smoking in particular is performed by Regional Health Inspectorates (RIOKOZ) which are part of the Ministry of Health. On the ministry's own anti-corruption webpage the RIOKOZ are listed among the executive state agencies where corruption is "most frequently found."² A cohort of about 600 state inspectors make their living as gatekeepers of the law, enforcing the state's

cumbersome health and sanitary requirements upon businesses and citizens alike. Bribes and little "favours" are common: 52% of Bulgarians – or just about every second one – are convinced that health, food and sanitary inspectors take bribes and abuse their positions for personal gain.³

In 2011, Bulgaria was the country with the worst score on Transparency International's Corruption Perceptions Index in the EU.⁴ In these circumstances of almost endemic corruption across the state apparatuses, the idea of getting citizens voluntarily involved in day-to-day tobacco smoking control was an opportunity to introduce greater transparency and civil society oversight of the murky state enforcement practices. It would give a well-needed boost to Borissov's self-proclaimed government quest against corruption. That is, if anyone wanted it to!

Citizen voluntary enforcement

The original reaction was discouraging. Tobacco industry front groups, public figures, MPs and journalists proclaimed public participation in law enforcement a crazy idea, ridiculed it and compared it to the *otryadnitsi* – the members of voluntary law enforcement brigades that had existed during the times of state socialism. The first state administration doors to open were at the Public Health Prevention Department of the Health Ministry, whose head, Masha Gavrilova, had been the engine behind tobacco-control legislation for decades. The sudden appearance of active and motivated citizens willing to get involved in the ban's enforcement was appreciated by Gavrilova and her committed team member Vilia Velikova. The two arranged for citizens and the heads of RIOKOZ to meet for the first time in early 2011.

But trust was not easy to build. A partial smoking ban had been enacted by Parliament and by the beginning of 2011 the members of BezDim were getting anxious to see it enforced, bombarding the inspectorates with reports of violations. Yet enforcement remained weak, according to a report by BezDim's members, released to the media in February 2011. The group pointed at the inefficiencies of the partial ban

1 www.bezdim.org

2 Ministry of Health (2009) *Anti-corruption, Conflict of Interest, Investigation of Alerts* (in Bulgarian). www.mh.government.bg/Articles.aspx?lang=bg-BG&pageid=426&categoryid=879&home=true

3 Eurobarometer (2012) *Corruption: Report*, p. 53. ec.europa.eu/public_opinion/archives/ebs/ebs_374_en.pdf

4 EurActive.com (2011) *Corruption creeping up in Bulgaria, Greece, Romania: TI*. www.euractiv.com/justice/corruption-creeping-bulgaria-greece-romania-ti-news-509380

and demanded decisive action by the state for its enforcement and for the restoring of the complete ban.⁵ Their observations also revealed specific cases of corruption among state inspectors.

Facebook and email had been the primary communication environments of the citizens' initiative since its very start, but BezDim members had also been proactive and creative in securing traditional mass media channels to communicate their messages so that they could reach and influence political decision makers. In an attempt to boost its outreach and capacity, BezDim had in 2010 already initiated a Smoke-free Life Coalition of existing groups, NGOs and any other interested organisations. Among the coalition's members were experienced medical and public health advocates, as well as BlueLink.net – a networking support provider for environmental NGOs and individual activists, and APC's member in Bulgaria.

Ushahidi's ways in Bulgaria

BlueLink.net took up the task of designing a web platform enabling voluntary participation in the enforcement of tobacco control. After a careful assessment of BezDim's needs and based on its previous experience with online platforms for filing citizens' complaints against illegal logging⁶ and urban environment problems,⁷ BlueLink.net opted for a solution based on Ushahidi. "Ushahidi's concept of 'activist mapping' is most suitable for BezDim's purpose, as it combines social activism, citizen journalism and geospatial information," explained Antonia Vlaykova, an IT coordinator at BlueLink.net. Based on Ushahidi, the BezDim platform should enable active citizens to report smoking ban violations, using mobile phones or the internet. The system will also create a temporal and geospatial archive of all reported incidents, and the way in which the authorities reacted to them. Another purpose of the platform is to enable contact and communication among citizen volunteers and BezDim members across the country, Vlaykova explained.

The platform's design was made possible by a grant administered by the International Union Against Tuberculosis and Lung Disease, one of the granting agencies in Europe of US-based Bloomberg Philanthropies. Bloomberg's funding made possible the hiring of a professional campaigning and analytical team. It positioned the developments in Bulgaria on the global anti-smoking movement's map and enabled a useful exchange of expertise and know-how. But the influx of donor money had a somewhat chilling

effect on the previously informal and very dynamic voluntary spirit of BezDim. Luckily the initiative was able to carefully manage the transformation and cautiously maintain its existing voluntary action spirit and mechanisms.

Winds of policy change

Things were changing on the government's side too. Upon retirement from the administration, Gavrilova joined BezDim's project team as a senior policy expert. Her reputation and media popularity as a former top ministry official in charge of tobacco control helped open new doors in the corridors of state power. In the meantime a legislative proposal for reinstating the complete ban was filed by the country's Health Minister Peter Konstantinov in December 2011. This time Prime Minister Borissov seemed to be willing to try enforcing a smoking ban, and he cut back the influence of tobacco industry lobbyists within his own ranks. EU Health Commissioner John Dalli demonstrated his support for the ban during a visit to Bulgaria and symbolically invited BezDim representatives to a smoke-free lunch. A cornerstone ruling by the country's Supreme Administrative Court earlier in 2011 had declared smoking an "unhealthy habit", rather than a human right, and confirmed that banning it was part of Bulgaria's obligations to the World Health Organization's Framework Convention on Tobacco Control and to EU law.⁸

Bulgaria's Chief State Health Inspector Angel Kountchev, a medical doctor and non-smoker, supported the ideas for government-citizen cooperation in law enforcement and announced it to all state health inspectors at their national meeting. He invited citizens' feedback on the performance of state inspectors. BezDim's web platform made it possible for users to conceal their identity from the authorities, protecting them from possible repercussions by restaurant owners or smokers. These options seemed very appropriate because of the popular suspicion that some inspectors were in permanent "friendly" contact with violators and would actually leak a plaintiff's identity to them – a possibility that would discourage many, particularly in smaller communities, from filing complaints.

Many chose to file violation alerts using the web-based form at www.bezdim.org, knowing that a project team member would duly submit them to the necessary inspectorate, and a formal answer would be received in due course. BezDim seemed more trustworthy as a channel of communication with

5 BezDim (2011) Our demands: restoring of the ban and law enforcement (in Bulgarian). bezdim.org/blog/2011/02/11/nashite-iskaniya

6 www.spasigorata.net

7 urbanotopia.bluelink.net

8 Antonov, P. (2011) SAC: The ban in Kyustendil – legal; its cancellation by the state – a violation of EU law, *Dnevnik*, 30 May (in Bulgarian). www.dnevnik.bg/bulgaria/2011/05/30/1097731-vas_zabranata_v_kjustendil_-zakonna_otmiyata_i_ot

authorities than their own existing phone lines and email addresses. About 30 alerts had been received and filed during its beta trial period, before it was even announced to the general public in March 2012. BezDim's project team examined them carefully as a case study, in order to analyse the performance and effectiveness of the new web-mediated channel for communication between citizens and authorities. The findings, as well as a list of repeated violations that had been reported, were submitted to Kountchev. A partnership that had seemed impossible started working.

Conclusion

The case discussed shows how active citizens in Bulgaria have used an open source internet solution strategically to achieve direct participation in the enforcement of a complete ban on tobacco smoking. Citizens have also used the web to keep their core group operational, coordinate and take immediate action, reach the mass media, and participate in decision making. Further, they have used available social networking and networking platforms to communicate their messages and boost support and participation. These include both commercially available options, such as Facebook, Twitter and YouTube, and non-commercial options, such as the activists' social networking site of BlueLink.net. Using these platforms to expose incidents of lack of enforcement and violations of the law, the activists in fact perform civil society oversight on the functioning of state enforcement bodies with a high corruption potential – such as the regional health inspectorates.

The latter function is made possible by an easy-to-use online form for filing citizens' reports of violations, which are then processed and passed to the authorities. The identity of the original senders is concealed in most cases, in order to guarantee their safety and trust. The described mechanism affects corruption both directly and indirectly. Its direct impact is exercised by:

- Optimising the performance and resources spent by enforcement authorities by directing them straight to observed incidents of legal violations.
- Bringing in more transparency and civil society oversight of the work of health and sanitary inspectors in Bulgaria.
- Sharing observations directly with their superiors at the Health Ministry, who are supposed to curb corruption.

Summed up, the measures listed above carry great potential for directly diminishing corrupt practices. But the indirect impact of BezDim's online mechanism is

also of great – possibly greater – importance for society. In effect, through the electronic platform and the related web-based communication tools, the anti-smoking activists have successfully offered to their fellow citizens a powerful avenue for direct participation in an area traditionally reserved for the state and its authorities, such as law enforcement. Such participation strengthens the performance of institutions by enhancing the self-healing powers of the administration and offering public support to honest officials working to decrease corruption and enforce laws. Not least, internet-based IT tools such as BezDim's smoking alerts platform have a multiplying effect upon civil society's participation and power to bring positive change and curb bad governance and corruption. Such potential is equally important for the so-called developed industrial societies of the West, the post-socialist countries of Eastern Central Europe, and for all societies across the world that seek to develop democracy, civil society and the rule of law.

Action steps

The story of BezDim suggests the following action steps for ICT activists:

- Cultivate and maintain a voluntary spirit: open and well-intentioned exchange of opinion, pooling of resources, and solidarity in the distribution of tasks make a civil initiative sustainable and attractive to more people.
- Beware of the effects of donor funding: apart from providing useful resources, it may easily kill a community's spirit.
- Create trust and make allies with people from the administration; use and help them to enhance transparency and public participation, and to accomplish your goals.
- Step up public intolerance to corruption by persistently revealing and shaming corruption publicly – in person, online and in the media.
- Make your group an exemplary showcase of transparency and anti-corruption practice.
- Look out for a broader "coalition" of allies who would back your cause and provide expertise and resources, and bring transparency to your work.
- Get key decision makers on your side: for example, the prime minister or an EU commissioner. Make it embarrassing – and politically unacceptable – for them to put up with endemic corruption and industry lobbying. ■