

GLOBAL INFORMATION SOCIETY WATCH 2011

INTERNET RIGHTS AND DEMOCRATISATION

Focus on freedom of expression and association online



BULGARIA

IS FREEDOM OF EXPRESSION AND ASSOCIATION ON THE NET WORKING ON THE STREET?



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Introduction

With global and national analysts emphasising a growing number of human rights violations in Bulgaria in 2010, it is no surprise that online activists are sounding the alarm that human rights are similarly not well protected online. Ethnic discrimination, police violence, the detention of asylum seekers, repression on freedom of speech and surveillance, pressure over media and personal communication, political pressure on the judiciary system, child abuse and anti-gay and lesbian aggression are the key human rights violations according to several institutions. Amnesty International,¹ the European Union (EU) Fundamental Rights Agency,² the United States (US) Department of State³ and the Bulgarian Helsinki Committee have identified negative developments in all major spheres of human rights protection compared to previous years.

With regard to human rights on the internet in Bulgaria, this report will focus on two aspects of freedom of expression and association online:

- Discursive dominance of hate speech in online activism that raises several questions: Is this freedom not used to violate the rights of vulnerable groups? Is civil society too weak to prevent undemocratic forces from exploiting online freedom? And if this is so, do we need this right to be checked and regulated?
- The Bulgarian perspective of the internet as a basic human right (the right to access vs. the right to privacy).

Policy and political background

In recent years Bulgaria's continuous transition to a "normal" country in the Western mould has been accompanied by the growing resentment of its citizens over the failed promise of democracy. The dominant

model is one of paralegal, post-communist "elites" in power with little cultural capital, but exerting an economic power that is the result of shady deals during the privatisation of state property. The "normalisation" of the state regime is currently going through what can be called a "feudal" stage with crime bosses having political impact. This stage has shown the general public that the Bulgarian transformation has been manifestly undemocratic and has failed the promise of liberal development and civic rights. The ideas connected to Western-type democracies have consequently been losing their appeal, and "human rights" and "civil society" are widely perceived as ideologemes that veil corrupt practices of stealing EU and international funds with no effect on the average Bulgarian's life. Online discourses of hate and virtual communities based on intolerance are now striking, given that many used to assume that the internet was a tool to fight oppression.

At the same time, authentic movements for social change come up against this paradigm of state control, which is being reinforced by capitalist monopolies. The pressure for elites on free speech that is a result of the political economy is evident in digital rights violations – both through illegal surveillance and official attempts at introducing legislation to grant the state control of internet communication. This paradigm of state control is specific to Bulgaria due to economic monopolies being closely intertwined with political power and the shady privatisation of prior communist-state properties. However, its discourse benefits from the Western European model of capitalism, which also imposes state control over internet consumption due to producer concerns over the free use of their products – a concern which the Western democracies explain as protecting copyright and stemming from the need for protection against piracy and cyber crime. Though broadband access has been a basic right in Finland since 2009,⁴ EU policies stress child protection and commercial rights rather than free access to online communication, as the debates⁵ around the

1 www.amnesty.org/en/region/bulgaria/report-2010

2 fra.europa.eu/fraWebsite/attachments/AR_2010-conf-edition_en.pdf

3 www.state.gov/documents/organization/160182.pdf

4 articles.cnn.com/2009-10-15/tech/finland.internet.rights_1_internet-access-fast-internet-megabit?_s=PM:TECH

5 www.edri.org/files/EDRI_ecommerceresponse_101105.pdf; www.edri.org/files/shadow_drd_report_110417.pdf

E-Commerce Directive (2000/31/EC) and the Data Retention Directive (2006/24/EC) show.

And even as the EU secures measures aimed at online privacy and anonymity of retained data, national legislation can easily bypass this to secure legal state surveillance, as has been the case in Bulgaria.⁶

Freedom of expression and association online used to violate the rights of vulnerable groups and to promote hate speech

A wave of racism and homophobia can be observed online in Bulgaria, as tolerance becomes associated with state and international support for Roma and homosexuals. This support is felt as “positive discrimination” – discrimination that grants Roma specific goods that are not accessible to others and thus neglects the needs of the majority. And – ridiculously – spontaneously formed online civic groups are very often formed in reaction to the overly political correctness and thus, for intrinsically non-civic goals – for example, the extermination of minorities in different forms.

On the other hand, traditional civic rights movements have gone online too. Though online activism seems to be the fashion and a lot of online “profiles” are adorned with affiliations to internet causes in defence of human rights, fewer participants are seen at offline meetings and protests that have the actual weight when attempting to change official policies.

In fact, extremist online groups are meeting more frequently offline than online social activists. While social researchers point out the growing number of Facebook groups and causes in support of neo-fascism, reminiscent of Hitler’s treatment of minorities, and protest against social policies supporting the long-term unemployment of Roma,⁷ offline incidents show the neo-Nazis do act in accordance with their claims. In the summer of 2010 two cases of violence emphasised the fact that the problem of intolerance is not a dormant or discursive one any more.

On 4 June 2010 a meeting was organised in support of human rights of Asian immigrants in Bulgaria. A group of several young people headed for the meeting were stalked in a public transport

tram and publicly beaten up with metal posts by fifteen neo-Nazis. The human rights meeting itself was attended by only 100 participants. Another case in line with growing racism is the group beating of Roma by neo-Nazis in close proximity to the Presidency building in central Sofia on 11 June 2010. A murder case of a boy, beaten to death in a park, happened in 2008 – and was only solved in June 2010 when the police arrested a group of youngsters who said they beat the boy because he “looked like a gay”.

Of course, civic reaction to these stories and a growing number of online protests against xenophobic aggression marked the end of 2010 – including responses from new human rights protection groups,⁸ statements by the Bulgarian Helsinki Committee⁹ and the Bulgarian Greens,¹⁰ and a well-attended flash mob in the centre of Sofia, protesting human rights violations and aggression.¹¹

However, the tendency towards intolerance and aggression is not checked and is the most popular cause in Bulgarian Facebook life. Opposition to the attempt to legalise state control of online content, including from bloggers and online activists, has amounted to some 5,700 signatures online,¹² while people who have declared online that they refuse to pay taxes for non-paying Roma citizens total some 20,841. Extreme groups declaring that “Roma should be turned into soap”, or making similar statements, are created and deleted daily.

In 2011 hate speech flourished in reaction to a street murder by the driver of a crime boss who had been linked for years to political corruption and cited as a “Roma king”. Online and offline protests against “Roma crime” began, and calls for the “protection of Bulgarians against Roma” have flourished.¹³ Attempts to review the crime as part of political-criminal monopolies in Bulgaria have been ignored in favour of an ethnic perspective on the case. Several big cities have witnessed street rallies against “tsiganisation”¹⁴ and Roma crime.

6 store.aip-bg.org/publications/ann_rep_eng/o8.pdf

7 balkans.blog.lemonde.fr/2011/02/21/sur-facebook-aussi-on-naime-pas-les-roms; www.julianpopov.com/main_page.html?fb_1383111_anch=9636455; www.dnevnik.bg/analizi/2010/01/26/848230_ekaterina_i_iskreno_sujaliava_za_hitler; www.capital.bg/politika_i_ikonomika/bulgaria/2010/10/12/974755_edna_po-razlichna_kauza

8 stopnazi-bg.blogspot.com/2011/02/25022011.html

9 e-vestnik.bg/9284

10 www.zelenite.bg/3059

11 nookofselene.wordpress.com/2010/06/11/anti-nazi-protest

12 www.facebook.com/group.php?gid=357395585520

13 english.aljazeera.net/news/europe/2011/09/201192653812872853.html; www.turkishweekly.net/news/124179/170-arrested-in-bulgaria-after-second-39-roma-protests-39-night.html

14 This term is becoming very popular in Bulgaria. It comes from “tsigane” the polite everyday word for “Roma” (“tsigane” = “gypsy”). “Tsiganisation” is used to indicate that the society is changing from a “Bulgarian” to a “tsigane” society.

At the same time, social networks are becoming the playground of users “deleting” friendships on the basis of support for or opposition to hate speech groups and causes.¹⁵ Attempts to clarify that the crime had no ethnic character and to bring the issue back to a crime of politically protected classes and corruption of police practice¹⁶ are almost unheard, and largely regarded as yet another dismissal of the citizens’ rights of ethnic Bulgarians.

However, the case has provoked official reaction against hate speech, with an emphasis on hate speech on the internet. This official response is needed, since a lot of the street aggression against Roma was initiated on Facebook and online forums. Bulgarian Chief Prosecutor Boris Velchev has ordered that the prosecution of hate crimes be intensified, which should have been current police practice if Bulgarian law was abided by anyway.¹⁷ According to Articles 162 and 163 of the Criminal Code, hate speech and provocation of aggression in written or oral form, including online communication, is a criminal offence, subject to a fine of BGN 5,000 to 10,000 (approx. EUR 2,500 to 5,000) and incarceration of two to four years.

Online media and forums should cooperate with police to enforce the illegality of online hate speech. However, prosecution against hate speech is often opposed on the grounds of the right of freedom of expression when specific cases are investigated, and priorities between these different human rights are never clearly set. According to the Bulgarian Constitutional Court, freedom of speech should be granted to all kinds of ideas, including shocking and offensive ones. Because of this Bulgaria still needs public debate and regulation of freedom of speech and its limitations in cases when other basic human rights are concerned.

The Bulgarian perspective on the internet as a basic human right: The right to access vs. the right to privacy

Since 2010 the world has been celebrating the power of the internet as a tool for mass protest movements (in Egypt, Libya, etc.) and has subsequently pleaded the guarantee of access to internet action as a basic right. However, Bulgaria still suffers from self-censorship in online communication and passive activism of internet users – mainly due to internet privacy issues and legal and illegal

state surveillance. In a broader perspective, the EU context of the right to access is fighting a powerful counterforce that argues the necessity of state intervention for internet security. This paradigm presumes the internet is intrinsically a tool for cyber crime and violating others’ rights (e.g. piracy and child abuse).

As pointed out in the Bulgaria country reports in GISWatch 2009 and 2010,¹⁸ Bulgaria has been witnessing a state strategy to legalise the traditional practice of surveillance over private communication, including online communication. Since 2010 this has been continued. As an NGO called Access to Information Programme pointed out in its annual report,¹⁹ we are again witnessing attempts to pass the draft bill to the Electronic Communications Act (ECA), which

(...) aimed to provide the Ministry of Interior with unauthorized direct electronic access to the communication data retained by providers of electronic services (...) i.e. information on who, where, when and with whom one has written or spoken by electronic means (through mobile phones or the internet). (...) [Since May 2010] the ECA provides for two categories of access to traffic data. One is the data used by the security services for the purposes of their operational activities, and another is the access of the prosecutors and investigative services for the purpose of specific criminal proceeding. The two types of access are treated differently – the first one requires a court warrant and the second not. Thus, the standard for securing the rights of individuals is lower than before the 2010 amendments to the ECA.²⁰

Given this background, Bulgaria’s concern with internet rights is quite different from the surging global cry for securing internet access as a tool for human rights movements. Whatever the country-specific debates and consequences, social uprisings in North Africa and the Middle East since 2010 have been fought online as much as in the streets. Oppression has been seen to fight back by stopping internet access. In reaction, in June 2011, the UN declared internet access a basic human right.²¹ However, in Bulgaria the struggle is not to secure access to internet communication but rather to secure the right for this communication to be

15 globalvoicesonline.org/2011/09/25/bulgaria-clashes-between-roma-people-and-ethnic-bulgarians-in-katunitsa

16 stopnazi-bg.org/declarations/73-konfliktat-v-katunica-ne-etnicheski

17 www.dnevnik.bg/bulgaria/2011/09/27/1164246_koga_ezikut_na_omrazata_e_prestuplenie

18 www.giswatch.org/en/2009 and www.giswatch.org/en/2010

19 store.aip-bg.org/publications/ann_rep_eng/2010.pdf

20 *Ibid.*, p. 19.

21 www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

free. Since surveillance results in censorship and more commonly in self-censorship, the efforts of Bulgarian activists have been focused on ensuring legislation that enforces online privacy. This digital activism is not fighting for offline change, but for the tools that might some day help bring it about. Ironically, nobody would think of denying anyone internet access in Bulgaria, largely because it is far from the active online causes and communities that result in offline protests and change as seen elsewhere.

The official Bulgarian discourses – and for that matter EU discourses – stress security and consumption on the internet rather than freedom and social bonding. The national one due to political oppression, the EU one due to the commercialisation of policies. The result in Bulgaria is a relatively high technological society where information and communications technologies (ICTs) are only passively used.

The passivity of virtual activism has often been lamented. The fact that online campaigning and free expression and association on the net have no or insufficient offline impact is well known. However, an analysis is needed on why some societies (arguably Egypt) do and some (e.g. Bulgaria) do not achieve offline social change by means of online campaigning and the free expression and association that the internet provides.

In this context Bulgaria continues to be marked by fighting for the right to allow online activism but not practising it yet, and, as mentioned, the right to access to the internet has never been denied. One reason is perhaps that this is the characteristic of consumption-oriented societies where social goals are not priorities for the individual – that is, the characteristics of societies where social bonds are weaker.

One interpretation for the Bulgarian case could also be that, similar to other post-socialist societies, Bulgaria is experiencing a rise of individualistic, hedonistic attitudes to technology. This is a result of an erroneous vision of post-totalitarian transition focused on capitalism and consumption, rather than democracy, civil liberties, or public participation in governance and decision making. On the one hand, the internet has proven to be a powerful tool for civic activism and collective work – the civil sector of the 21st century cannot do without online collaboration. But on the other hand, within an individualistic culture, there is a “dark side” to the world wide web that facilitates a post-modern hedonism and undermines collective social links. And that is why public pressure for legislation that secures online activism is very weak and limited to the very few activists who were the first to take up the cause of digital rights in Bulgaria.

Conclusions

The growing tiredness of democracy is threatening to bring extremist aggression to the centre of Bulgarian public norms. Online communication stays virtual when defending human rights, but spills over onto the street when violating them. In this context, digital activists need more support from human rights NGOs and workers, in order to secure privacy rights online and to join forces in using ICTs to reinforce weak community links and democratic values.

Action steps

- Besides protests against state surveillance of online communication there is a need for formal regulations to limit violations of human rights online, in whatever form that violation occurs (writing, images, video, etc.).
- Digital rights advocacy should be combined with the concrete development of ICT tools that practising human rights activists can use to popularise “active” online activism – that is, tools that help to create a political effect offline. Good practices that are inspired by activist platforms used locally and abroad and slowly encourage supporters to go beyond the “like” function include spasigorata.net (online civic alerts on forest crime), sofia.urbanotopia.eu (online civic alerts on urban problems), fairelections.eu (online civic alerts on election fraud), and vote.bluelink.net (an online election mechanism for internal selection of NGO representatives for governmental committees).
- NGOs need to push state institutions into providing spaces for online consultation and services that help citizens exercise their rights. Some of the platforms cited above are examples of how civil society groups can start a service that should be provided through e-government, and then push the government to follow up and support the piloted e-tool. ■

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