

**KEY ACHIEVEMENTS OF
ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2011**

Following its mission – to promote the exercise of the right to information envisaged in Article 41 of the Bulgarian Constitution – Access to Information Programme (AIP) Foundation is realizing its long-term objectives:

- To encourage individual and public demand for public information through civic education in the right to know area.
- To work for transparency of government at different levels, advocating for more active supply of information.

In 2011, the team of AIP has worked in several directions to realize these long-term objectives:

1. Advocacy for better legislation guaranteeing the right of access to public information and regulating its restrictions.
2. Monitoring the practices of information provision.

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3. Legal assistance in cases of information seeking and in cases of information refusals, including a representation in court.
4. Public awareness campaigns and trainings on the right of access to information.
5. Participation in public debates on access to information and freedom of expression issues.
6. Cooperation with partner organizations on national, regional and global level.
7. Institutional strengthening and development.

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The main achievements in these directions are as follows:

1. Advocacy for better legislation on the right of access to information and its exemptions

AIP has continued its advocacy work for better legislation on freedom of information by preparing and submitting of statements and opinions, by participating in public debates on proposed legislative amendments.

The main recommendations with regard to the access to information legislation, which AIP formulated on the base of analysis of the effective legislation and the existing implementation practices in its annual report *Access to Information in Bulgaria* were the following¹:

- The government shall undertake steps for the signing and ratification of the European Convention on Access to Official Documents.
- The following amendments to the Access to Public Information Act (APIA) shall be drafted and introduced:
 - To assign a specific public body to supervise, coordinate and control the APIA implementation, including the unification of the standards for proactive disclosure of information under Art. 15 and Art. 15a and the Internal APIA Implementation Rules;
 - To assign the officials responsible for finding and sanctioning non-compliance with the APIA in a way that they shall not coincide with and shall not depend on the officials subject to sanctioning;
 - To extend the scope of administrative sanctions under the APIA so that they would cover not responding in the legally prescribed form.
- To amend Art. 46a, Para. 2 of the Administration Act by explicitly entrusting the General Inspectorate at the Council of Ministers with the authority to oversee the work of the inspectorates (the alternative being the establishment

¹ http://store.aip-bq.org//publications/ann_rep_eng/2012.pdf

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of an Access to Information Commissioner, Commission via amendments to the APIA).

- To amend the Trade Register Act or the relevant secondary legal basis in a way that it ensures access by everyone to the online register and to all its records.
- The scope of the *List of the State Secret* appended to Art. 25 of the *Protection of Classified Information Act* to be narrowed so that the information collected by special surveillance means for the purposes of criminal proceedings, as well as reports on general data about the application of special surveillance means, not to be subject to classification as state secret.
- To introduce in the Public Procurement Act obligation for publication of the public procurement contracts in their entirety in the online Public Procurements Register.

Internal Rules for the Provision of Access to Information and the Procedure for Access to Public Registers

The 2008 APIA amendments introduced the obligation for the executive bodies to publish on their web sites the Internal APIA implementation rules in a special *Access to Information* section. The obliged bodies had a year for preparation. AIP audits on the Internet sites of the institutions with regard to the new obligations showed low level of implementation. In 2010, 26% out of 502 institutions had published their Internal Rules. The recommendations in AIP annual report on the state of access to information were for serious attention towards the reasons for such a low implementation and for undertaking of measures for improvement. During the next 2011, the percentage of publication of the Internal Rules had significantly increased – 52% out of 495 institutions, while in 2012, the percentage was 56 out of 474 institutions.

In 2012, an analysis was made on the online available Internal Rules from the point of view of their consistency with the APIA. Recommendations were formulated with regard to the content of those Rules. The analysis was part of the AIP annual report *Access to Information in Bulgaria*: http://store.aip-bg.org/publications/ann_rep_eng/2011.pdf.

Participation in the Global Open Government Partnership Initiative (OGP)

With a decision of the Council of Ministers as of August 2011, Bulgaria officially joined the Open Government Partnership on September 20, 2011 in New York. The body responsible for the coordination of Bulgaria's participation in OGP was the Council for Development at the Council of Ministers.

On September 20, 2011, the 8 founding governments (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, United States) and announced their country action plans for achieving greater government transparency and openness. Other 38 countries, including Bulgaria, presented their national action plan at the next OGP meeting in Brazil in April 2012.

AIP Executive Director Gergana Jouleva was invited to the first OGP Annual High-Level Conference held in Brasilia, Brazil on 17-18 April, 2012 where representatives of 55 government joining the initiative took part, as well as 150 representatives of civil organizations, advocates for open and transparent government..

On April 17, 2012, Mrs. Jouleva delivered a brief analysis on the Bulgarian OGP National Action Plan and took part in the NGOs' meeting held on April 18, 2012.

In June 2012, the Council of Ministers adopted an Operational Plan with specific measures for the implementation of Bulgaria's commitments within the Global OGP Initiative. The Operational Plan is available in a special OGP section at the government Public Consultations Portal at: <http://www.strategy.bg/Articles/View.aspx?lang=bg-BG&Id=9>.

AIP Executive Director Gergana Jouleva's comments on the Bulgarian Action Plan for the Implementation of the OGP Commitments were disseminated via AIP web site and the FOI Monthly Newsletter, August 2012 issue: <http://www.aip-bg.org/publications/Бюлетин/България Оперативен план на необсъдена стратегия/109297/1000125607/> (in Bulgarian).

Summary in English: OGP: Bulgaria - Operational Plan on Undiscussed Strategy: http://www.aip-bg.org/en/news/OGP_Bulgaria_Operational_Plan_on_Undiscussed_Strategy/20130419005485/

On October 4-5, 2012, the second European OGP meeting was held in Dubrovnik, Croatia. AIP Executive Director and the Head of Legal team took part as experts in the OGP Network Mechanism organized by Global Integrity as a side event to the European OGP meeting.

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On October 15, 2012, the first meeting of civil society organizations involved in the OGP took place at the initiative of the AIP Executive Director Gergana Jouleva. The purpose was to discuss possible forms of partnership with the Bulgarian government and the establishment of an informal coalition of NGOs to monitor the implementation of the measures provisioned by the national operational plan within the OGP. The minutes were published on AIP web site and disseminated via the FOIANet: http://www.aip-bg.org/en/news/Better_Government_through_Openness/20121107005291/.

On December 10, 2012, the 3rd European OGP meeting took place, organized by the Department of Public Administration at the Council of Ministers in Rome, Italy. The meeting was titled *Transparency, collaboration, and participation: Public Administration opens to dialogue*. Representatives of the public administration and of the civil society discussed the opportunities for further collaboration between European governments in aspiring greater openness. AIP Executive Director Gergana Jouleva and the Head of Legal team Alexander Kashumov took part in the OGP Network Mechanism as representatives of the civil society sector in Bulgaria. Among the participants were representatives of governments and open government advocates from Armenia, UK, Italy, Spain, Norway, Serbia, Croatia, and the Netherlands.

The Bulgarian Government OGP Operational Plan provisioned a measure of amendments to the APIA in its part regulating the proactive publication of information. In 2013, a Bill for Amendments to the APIA should be drafted. AIP will actively participate in the discussions about on the amendments.

AIP Statement on Constitutional Case No. 14/2011

On February 20, 2012, AIP filed and made available online its [amicus curiae brief on Constitutional Case No. 14/2011](#) at the Constitutional Court of Republic of Bulgaria with regard to the demand by three Justices from the Supreme Administrative Court (SAC) for the repeal of a provision from the *Law for Access and Disclosure of the Documents and Announcing Affiliation of Bulgarian citizens to the State Security and the Intelligence Services of the Bulgarian National Army*. AIP stands that the referral is unlawful and the provision is consistent with the Constitution. AIP was constituted as a party in the constitutional case among the others. With a decision No. 4 as of

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March 26, 2012, the Constitutional court rejected the referral of the SAC to establish unconstitutionality of the challenged provision. The Court completely upheld the arguments put forward by AIP's brief. At the time of the *amicus curie* brief submission, Alexander Kashumov took part in the discussion organized by *Obektiv* magazine at the Bulgarian Helsinki Committee.

Participation in the Debate for Over-Classification of Court Cases

AIP presented its position at round table *Classified Information in Penal Proceedings* organized by the State Commission on Information Security and the Parliamentary Committee on Internal Security and Public Order in the National Assembly on 28 February 2012.

Statements and Consultations for the "Archives" State Agency on issues related to the publication of documents

In 2012, AIP continued the consultations started in 2011 to the "Archives" State Agency regarding the balance between the publicity and the protection of personal data and other legal interests in archival documents.

Alexander Kashumov had meetings with the management and officials from the Archives, reviewed the documents and provided statements with regard to the publishing of information on some decisions and sanctions of the Bulgarian Communist Party's Politburo during the totalitarian regime and the protection of specific sensitive information. As a result of the legal advice, the Agency published on its web site in the section "The Archives Speak...", subsection *Politburo 1944-1989*, the so called "A" Decisions, as well as the declassified "B" Decisions of Politburo. The provision of consultations by AIP is ongoing.

Participation in the Debate for Transparency in the Selection of Members of the Supreme Judicial Council and the Judicial Reform

In 2012, AIP continued the cooperation with NGOs working for the reform of the judicial system. On January 5, AIP Executive Director Gergana Jouleva and AIP Head of Legal Team Alexander Kashumov participated in a meeting organized by the Minister of Justice with the representatives of 9 other NGOs. The discussion meetings on the proposed amendments to the legislation organized by the MJ

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continued during the whole year. On June 13, 2012, the President of the Republic of Bulgaria held a discussion meeting with NGOs for putting a veto on the proposed amendments to the Judicial Power Act. Alexander Kashumov took part in the meeting. Eventually, the President vetoed the draft law.

(held on January 5, 2012 and February 10, 2012).

Participation in the Debate on the Draft Laws Re the Security Services

The Head of AIP Legal Team Alexander Kashumov participated in the Public Discussion on the four Drafts of the National Security Act, the National Protection Service Act, the Military Intelligence Act, and the National Intelligence Service Act organized by the Ministry of Interior and held on October 2, 2012.

On November 15, 2012, Gergana Jouleva and Alexander Kashumov participated in the Conference “Parliamentary Oversight on the Security Services” held in the National Assembly.

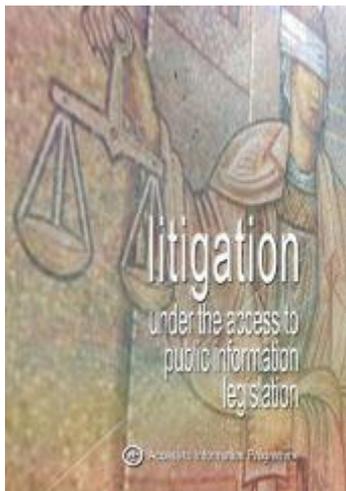
On December 19, 2012, Alexander Kashumov participated in a joint session of the Internal Affairs and Public Order Parliamentary Committee and the External Policies and Defense Parliamentary Committee discussing the draft security services laws.

2. Monitoring of access to information provision practices of the bodies obliged under the law

In 2012, the monitoring was performed by:

- Systematization of cases referred to AIP for legal help. Statistics from AIP data base is an indicator for the APIA implementation and problematic issues in the freedom of information (FOI) area.
- Systematization and analysis of court practices on cases when administrative decisions for refusals to provide access to information.

In July 2012, Access to Information Programme launched the fifth book which is part of the continuous analyses we make on the Access to Public Information Act litigation in Bulgaria. The book contains analysis and commentary on the litigation on specific issues related to the free access to information and its restrictions. The book also



contains summaries of sixteen court cases which have resulted in changes in the practices and the strengthening of the principles of the right of access to information. Authors of the analytical part are the attorneys-at-law from AIP legal team Alexander Kashumov, head of the team, and Kiril Terziiski. (Litigation under the Access to Public Information Legislation, Access to Information Programme, 2012, 168 pages, ISBN 978-954-9953-49-7). The book is translated in English and available on AIP: http://store.aip-bg.org/publications/books_eng/Litigation_2012.pdf.

The book was presented on October 31, 2012 at the Union of Bulgarian Jurists. More than 50 attended – journalists, lawyers, representatives of the authorities and the business, academics, AIP clients, partners and friends. Among the guests were the Chairperson of the Supreme Bar Council Ms. Daniela Dokovska, the Chairperson of the State Commission on Information Security Ms. Tsveta Markova, the Deputy Minister of the Interior Mr. Veselin Vuchkov, the Director of the National Institute of Justice Mr. Dragomir Yordanov, justices from the Supreme Administrative Court.

Audit on Active Transparency

Within the period 23.01 – 16.03, 2012, the team of AIP performed an audit on public bodies' web sites with the purpose to evaluate the implementation of the obligations under the Access to Public Information Act (APIA) for online publication of certain categories of information and under other regulations for active disclosure of public information by the executive power bodies at a central, regional, and local level.

AIP audited 474 web sites of 487 administrative structures of the executive power. 13 institutions did not have web sites. The level of transparency was assessed on the base of 39 or 40 (for the municipalities) indicators, which encompass the standards for active disclosure of information under the APIA and other regulations:

- Institutional information - legal basis of the institution, functions, services provided, data bases and information resources;
- Organizational structure and contact information;
- Operational information – acts, strategies, plans, activities;

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- Financial and other transparency – budgets and financial reports, contracts, conflict of interests declarations;

As part of the audit, 485 access to information requests were filed about the public registers maintained by the respective public body. The results were incorporated in the Public Registers Portal: <http://www.publicregisters.info/>, which contains information and links to 631 public registers maintained by government bodies. The requested information is subject to publication under Art. 15a, Para. 2 of the Access to Public Information Act. The purpose of filing e-requests by AIP is to identify the e-requests practices, outline the problems and formulate recommendations for their overcoming.

The results of the audit are available on AIP web site:

<http://www.aip-bg.org/en/surveys/2012/204468/>

For the first time, the level of implementation of the obligations for active disclosure of information was assessed quantitatively. This allowed for the launch of the First Active Transparency Rating of Bulgarian Institutions:

<http://www.aip-bg.org/surveys/Рейтинг/202921/>

On April 4, 2012, at a press conference at the Bulgarian News Agency, Access to Information Programme presented the 2012 Active Transparency Rating and the Public Registers Portal in Bulgaria. The Rating is based on the results from the 2012 audit on the web sites of the administrative structures of the executive power in Bulgaria from the point of view of the obligations for online publication of information under the Access to Public Information Act (APIA) and other legislation. The Portal <http://www.publicregisters.info/> launched and maintained by [AIP](#), contributes to the transparency and accountability of public bodies and facilitates citizens, business, NGOs and journalists in their search for information which should be available, up-to-date, and accessible, which in most of the cases is not known by the seeker.

The launch of the Active Transparency Rating was met with great interest by both the media and the institutions themselves. The availability of the assessment indicators and the functionality of AIP web site allowing for different cross-checks and

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comparisons is an important tool for advocacy for more transparent institutions and has an educational impact on the administration.

The analysis of the results was published and disseminated via AIP monthly Newsletter :

[http://www.aip-
bg.org/publications/Бюлетин/Оценка на интернет страниците на органите на
изпълнителната /105391/1000394285/](http://www.aip-bg.org/publications/Бюлетин/Оценка на интернет страниците на органите на изпълнителната /105391/1000394285/)

and is part of AIP annual report Access to Information in Bulgaria 2011: http://store.aip-bg.org/publications/ann_rep_eng/2011.pdf.

On May 17, 2012 AIP held a presconference in the Bulgarian News Agency to present the annual report Access to Information in Bulgaria 2011: [http://www.aip-
bg.org/en/news/AIP_presented_the_Annual_Report_Access_to_Information_in_Bul/
20120517001232/](http://www.aip-bg.org/en/news/AIP_presented_the_Annual_Report_Access_to_Information_in_Bul/20120517001232/)

The 12th report after the adoption of the APIA in 2000 contains systematization of the results of the monitoring of the access to information practices, detailed analysis of the effective access to information legislation and the access to information cases referred to AIP for legal help and consultation including the litigation. The report also contains recommendations towards to legislative and executive power in Bulgaria for facilitating the access to information and increasing the transparency and accountability of the public administration;

3. Legal help in cases of information seeking and information refusal, including representation in court

GENERAL CHARACTERISTICS

Provision of legal help is among the priorities in Access to Information Programme activities. In some of these cases, AIP has provided legal help at the initial phase of the search for information and the legal team has given advice and/or has prepared a request for access to information. In other cases, we have helped after a refusal for provision of information.

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Number of Cases Referred for Legal Help

The number of cases referred to AIP for legal help within the period January – December 2012 is 311. The information seekers have requested assistance in our office, by e-mail, or by phone.

Depending on the characteristics and the legal qualification, three types of cases are identified:

- The majority are related to practices of non-fulfillment of the Access to Public Information Act obligations by public bodies – 263 instances;
- Next largest group of cases is related to violations of the right of personal data protection granted by the Personal Data Protection Act – 24 instances;
- In a few cases, we have given legal advice with regard to violation of the right to seek, receive and impart information – 16 instances;
- Cases related to freedom of expression – 4 instance, etc;

Most Active Groups of Information Seekers

AIP experience shows that most frequently the APIA is used by citizens, journalists and nongovernmental organizations (NGOs). In 2012, again the largest number of consultations was provided to citizens who had sought the assistance of AIP - 182 instances. In 66 cases, journalists and AIP coordinators (all of them journalists) from central and local media asked for legal assistance, while 53 cases were referred to AIP by NGOs.

From Which Public Bodies Do Information Seekers Mainly Request Information?

The number of cases in which information seekers request information from the central executive bodies and the local self-government bodies (mayors and municipal councils) is the largest - 108 and 96 cases respectively.

Less frequently, information was sought from public-law organizations (20), regional units of the executive power bodies (22), from the judicial power bodies (14), independent government bodies (14), etc. (See Appendix 2: Statistics from the Access to Information Programme Electronic Data Base 2012).

Most Frequently Used Grounds for Refusal

In 2012, again the number of registered silent refusals is high - 28. Out of the grounded refusals, the most are related to the third party interests' exemption (Art. 37, Para. 1, Item 2 of the APIA) – 19; and the personal data protection - 12. Five are the refusals based on the trade secret exemption and 10 are grounded in the exception provided by Art. 13, Para. 2 of the APIA.

Specific Characteristics

The number of cases referred for legal help remains stable – around 300. This is valid for 2012 as well. We have, however, observed an increase of the number of consultations in a specific case. In 2012, 643 consultations were given in 311 cases, while in 2011, 330 cases received 579 consultations.

In 2012, the number of NGOs who have addressed AIP for legal advice has increased – in 2011 they were 34, while in 2012 – 53.

In 2012, a lot of institutions did not respond to access to information requests (the so called silent refusal). The number of refusals grounded on the third party interests is also high. The number of cases referred to AIP by email is also increasing. The number of written consultations provided by e-mail in 2010 was 137, in 2011 they were 219, while in 2012 - 251.

Type of Legal Help Provided

In 2012, AIP legal team has provided pro bono legal help in the following ways:

3.1. Oral consultations on referred cases related to access to information – by phone or at the AIP office. The number of cases consulted by phone is **211**. **177** cases were consulted at the AIP office.

3.2. Written consultations on 255 cases were given by electronic e-mail.

3.3. Legal assistance in court cases and representation in courts

AIP has continued to provide legal assistance to citizens, nongovernmental organizations and journalists, bringing cases against denials of access to information to the court. In 2012, the legal team prepared 69 complaints and written defenses on

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behalf of information seekers (45 – on cases brought by citizens, 10 - by non-governmental organizations, 14 – by journalists).

AIP legal team prepared 50 complaints. Before a first instance court – 29 (Administrative court - Sofia city – 16, Administrative court - Sofia region – 4, other administrative courts – 9); cassation appeals against decisions (before the Supreme Administrative Court) – 15 and 4 appeals against court rulings.

Out of the 29 complaints filed with a first instance court, 23 were against explicit refusals of access to information and 6 were against silent refusals.

AIP provided court representation in 74 cases in which access to information had been denied. The legal team prepared 19 written defenses in court cases supported by the organization.

In 2012 were delivered 81 court decisions and rulings in cases supported by AIP (Supreme Administrative Court – 33, Administrative court - Sofia city – 32, Administrative court - Sofia region – 2, administrative courts in the country – 14). In 56 cases, the court ruled in favor of the information requestors, while in 25 – in favor of the public authorities.

The concept of “public information”

The issue of the nature of the information was a subject of debate in several court cases supported by AIP where the administration's refusals were motivated with the allegation that the information does not constitute public information under the APIA and therefore it should not be provided.

By a decision of the 5 January 2012, the Supreme Administrative Court (SAC) upheld a decision of the ACSC repealing the refusal by the Bulgarian National Radio's director to provide information about the number, brands and models of vehicles owned by the BNR. In the text of the decision, the Justices indicated that this information will undoubtedly give the applicant the opportunity to form her/his own opinion about the activity of the BNR related to the acquisition of property by funds from the state budget.²

By a decision of the 17 January 2012, the SAC repealed a decision of the Administrative court – Sliven, as well as the refusal by the manager of “ViK” – Sliven (the water and sewerage supplier company for Sliven) to provide copies of the minutes of general assemblies held by the company. In the text of the decision, the Justices indicated that the requested minutes are official public information as they contain information on the company's activities for a certain period of time and the

² Decision no. 170/05.01.2012 of the SAC, Fifth Division, on administrative case no. 16146/2011.

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information seeker will clearly be able to form his own opinion about the activities of the obliged body out of these minutes.³

By a decision of the 13 February 2012, the SAC confirmed a decision of the ACSC repealing the refusal by the Ministry of justice to provide access to the personal prison file of the last prisoner executed in Bulgaria. The Court held that this information is official public information under the APIA, since from the orders attached to the file, the initial and current reports, the psychological conclusions, risk assessments and other documents prepared during and related to the person's stay in prison until the execution of his sentence, may be inferred and people may form their own opinions about the activities of the obliged under the law subjects – the officials of the General Directorate “Execution of Sentences”.⁴

By a decision of the 19 March 2012, the Administrative Court Sofia City (ACSC) repealed a refusal by the Ministry of Finance to provide access to declarations of independent MPs to direct their full subsidy from the budget to a particular political party. According to the court this information is undoubtedly public, because it is related to the political life of the country and provides an opportunity for citizens to form an opinion about the activities of the entities participating in the political process.⁵

By a decision of the 5 June 2012, the Administrative court – Sofia region (ACSR) repealed a refusal by the mayor of Elin Pelin Municipality to provide the entire administrative file on approving the detailed spatial development plan (DSDP) for designation of a real-estate for the expansion of the airfield in the village of Lesnovo, including a request to assess the need for an environmental impact assessment, management and control of the environment assessment, a declared and duly approved noise map of the site and more. In its judgment, the court held that the requested information is public under the APIA because it concerns public life in the village and affects the legal rights of each of its inhabitants. The court further notes that the development of a DSDP is a process related to the issuance of an administrative act and not to administrative services to citizens.⁶ The ACSR took the same stance in a judgment of 2 July 2012 on another refusal of Elin Pelin’s mayor to disclose information on the expansion of Lesnovo’s airfield. The refusal was again motivated with the assertion that the information is not public because it is related to the provision of administrative services to the citizens and therefore the APIA cannot be applied.⁷

³ Decision no. 881/17.01.2012 e. of the SAC, Fifth Division, on administrative case no. 3126/2011.

⁴ Decision no. 2082/13.02.2012 of the SAC, Fifth Division, on administrative case no. 3992/2011.

⁵ Decision no. 1442/19.03.2012 of the ACSC, Second Division, 34th panel, on administrative case no. 6243/2011.

⁶ Decision no. 448/05.06.2012 of the ACSR, Third panel, on administrative case no. 248/2012.

⁷ Decision no. 540/02.07.2012 of the ACSR, Fifth panel, on administrative case no. 249/2012.

Overriding public interest

During 2012, in several cases supported by AIP, different courts held that there was an overriding public interest in providing access to information and on that ground repealed refusals of the administration.

By a decision of the 12 March 2012, the ACSC repealed a refusal by the director of General Directorate "Execution of Sentences" to provide information on the directors of the Sofia prison for the period 1980 -1990, as well as information on four individuals sentenced to death and executed for their participation in the so called "Renaissance process".⁸ The information was requested by the BBT TV journalist Svetoslava Tadarukova in connection with the preparation of a documentary film on the "Renaissance process." The court held that the use of this information for the creation of a film about a significant event in Bulgaria's recent history defines also the existence of an overriding public interest in disclosure of the information.⁹

By a decision of the 6 April 2012, the ACSC repealed a refusal by the director of the National Customs Agency to provide information whether there are excise customs warehouses other than those of "Lukoil Bulgaria", where measuring instruments under Ordinance № 3 of 19.02.2012 "on the specific requirements and the control exercised by the customs authorities on the measurement of excisable goods" are not installed; which companies operate those warehouses; the list of companies and number of points without installed measuring instruments. The court held that the requested information directly affects the transparency and accountability of the National Customs Agency, and therefore there is an overriding public interest in its provision.¹⁰

By a decision of the 19 April 2012, the ACSC repealed a refusal by the director of the National Center for Information and Documentation to provide information related to the university diploma of the former executive director of the State Fund "Agriculture." The court held that in view of facts reported by the media that the former director's diploma is fake, there is an overriding public interest in the provision of this information.¹¹

By a decision of the 19 June 2012, the ACSC repealed a refusal by the Supreme Judicial Council's Inspectorate to provide access to an opinion, prepared by the Inspectorate acting on a signal for inspection on a judge, later nominated by the National Assembly for Inspector with the Inspectorate. The court held that disclosure of this public information would increase the Inspectorate's transparency and this at a

⁸ Or "Revival process" – persecutions against the Bulgarian Turkish and Muslim minorities in the 1970s and 80s.

⁹ Decision no. 1324/12.03.2012 of the ACSC, First Division, 5th panel, on administrative case no. 9777/2011.

¹⁰ Decision no. 1885/06.04.2012 of the ACSC, Second Division, 29th panel, on administrative case no. 9957/2011.

¹¹ Decision no. 2072/19.04.2012 of the ACSC, Second Division, 28th panel, on administrative case no. 633/2012.

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time when it is especially necessary because the judiciary is subject to increased public attention.¹²

By a decision of the 18 June 2012, the SAC upheld a decision of the Administrative court - Smolyan repealing the refusal by the mayor of Smolyan Municipality to provide information on the price of two contracts on domestic waste management. The court held that concerning the price of contracts concluded by obliged subjects under the APIA, the legislator had introduced a presumption of the existence of overriding public interest in its disclosure. Therefore, the requester does not have to prove the existence of overriding public interest for the provision of access to this information. On the contrary, the administrative body, alleging otherwise, should prove it.¹³

By a decision of the 29 October 2012, the SAC repealed a decision of the ACSC, as well as a refusal by the Ministry of Physical Education and Sports to provide information on all its contracts with the Bulgarian Ski Federation in the period January 2007 – May 2011. The court held that the Additional Provisions of the APIA laid down a presumption of overriding public interest in disclosure of the contracts concluded by obliged subjects under the law. Therefore, it is not the requestor who should demonstrate the existence of overriding public interest, but the institution that must prove the absence of such.¹⁴

Broader range of obliged subjects

In 2012, in case law was again observed broadening of the number of obliged subjects under the APIA.

By a decision of the 14 March 2012, the ACSC repealed a refusal by the director of the Sofia Public Electrical Transport Company JSC to provide information about the purchase and sale of three mourning trains. The court held that the company is a public law organization within the meaning of §1, item 4, letter “b” of the AP of the APIA, because it is established to satisfy a public interest – providing the population of the capital city with public transport (particularly electrical - trams and trolleybuses). Furthermore, more than the half of the members of its management or oversight body are appointed by an authority under Article 7, item 1 or 3 of the Public Procurement Act (PPA), which in this case is the Sofia Municipality.¹⁵

Preparatory documents

By a decision of the 30 January 2012, the Administrative court - Haskovo repealed a refusal by the mayor of Harmanli Municipality to provide a copy of the report on an

¹² Decision no. 4207/19.07.2012 of the ACSC, Second Division, 27th panel, on administrative case no. 3311/2012

¹³ Decision no. 8706/18.06.2012 of the SAC, Fifth Division, on administrative case no. 9760/2011

¹⁴ Decision no. 13492/29.10.2012 of the SAC, Fifth Division, on a. d. no. 15594/2011

¹⁵ Decision no. 1379/14.03.2012 of the ACSC, Second Division, 30th panel, on a. d. no. 8142/2011

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inspection by the Public Financial Inspection Agency (PFIA). The court held that the Harmanli Municipality did not prove that the requested information is related to the preparatory work on acts of the administrative bodies, and has no significance in itself, nor did it prove that the information contains opinions and statements related to on-going or prospective negotiations to be led by the administrative body or on its behalf, as well as any data relating thereto.¹⁶

By a decision of the 14 May 2012, the ACSC repealed a refusal by the Sofia Municipality to provide information on a report on a project for the realization of green spaces in Sofia's Vazrazhdane park. The court held that the preparatory documents restriction is only applicable if there is a final act issued by the administrative authority, because in these cases the public can obtain information from that final act. The court indicated that access to the whole report cannot be denied on the grounds of preparatory documents since besides the opinions and recommendations it contains findings with completely independent significance because they reflect the situation at a given time and are not subject to change.¹⁷

Personal data

By a decision of the 24 February 2012, the SAC repealed a refusal by the chairman of the Communications Regulation Commission (CRC) to provide information whether the person appointed as chief secretary had the necessary professional experience for occupying this position. The court panel indicated that the duration of professional work experience is not related to privacy and family life, but is an objectively existing fact. In this sense, access to the requested information does not affect personal data because the applicant did ask about the chief secretary's professional experience in general but whether she/he had the professional experience required under the rules. Therefore, no personal data are concerned but rather access to public information, enabling the applicant to form an opinion about the activities of the obliged subject and, more specifically, whether the rules for appointment of commission staff are observed by the chairman of the CRC.¹⁸

By a decision of the 29 October 2012, the SAC upheld a decision of the ACSC repealing the refusal by the Ministry of Justice to provide information about the names and positions of the committee members who had approved non profit legal entities (NGOs) to be subsidized from the 2010 state budget. The court held that the names and positions held by civil servants are not personal data. The Justices referred to the Constitutional Court jurisprudence according to which the protection of personal data of persons holding government position is significantly lower compared to the protection of personal data of other citizens.¹⁹

¹⁶ Decision of the 30.01.2012 *a. of the Administrative court - Haskovo, on a. d. no. 778/2011*

¹⁷ Decision no. 940/22.02.2012 of the ACSC, Second Division, 22nd panel, on a. d. no. 8937/2011

¹⁸ Decision no. 2726/24.02.2012 of the SAC, Fifth Division, on a. d. no. 9865/2011

¹⁹ Decision no. 13502/29.10.2012 of the SAC, Fifth Division, on a. d. no. 8102/2011

Protection of third party interests

By a decision of the 28 June 2012, the Administrative court - Pleven repealed a refusal by the chief secretary of the Pleven Municipality to provide information on the remuneration of the municipal companies' management. The court held that the requested information concerns the personal remuneration of the managers of municipal companies, which is why the municipality should conduct the procedure for seeking consent from those individuals, and not justify its refusal with the necessity of obtaining consent without it actually being sought.²⁰

Classified information – official secret

By a decision of the 18 October 2012, the SAC repealed a decision of the ACSC, as well as a refusal by the Aviosquad 28 (the government airline operator) to provide information about expenses on the Prime Minister's air travel in the country for the period 2009 – 2010. The court held that the information did not fall in the lists of categories of official secret for the sectors of transport and communications, established by the Minister of Communications and Transport. In addition, the information requested relates only to the expenses made and not to the destination and time of the flights in order to assume that access would adversely affect a state interest. Information on the costs incurred for flights of the Prime Minister could not be classified information as they are expenses from the state budget the execution of which is reported annually and publicly.²¹

Access to information – access to documents

Although in recent years sustainable case law has been established that under the APIA both access to information and access to documents may be requested, because the latter represent information but recorded in a specific form, in 2012 again the court had to repeal refusals of the administration alleging that under the APIA may be requested information, but not documents.

By a decision of the 3 April 2012, the ACSC repealed a refusal by the Ministry of Economy, Energy and Tourism (MEET) to provide information concerning a ministry's opinion according to which the actions of the physicist Georgi Kotev and the Association of free speech "Anna Politkovskaya" cost the state budget 2 million BGN, spent on maintaining the positive image of the Bulgarian nuclear energy industry. According to the court panel, the physical bearer of the information, in this case the respective document – a letter from the director of Directorate "Energy industry security" in the MEET – is not something requested for its material substrate, but for the information it contains.²²

²⁰ Decision no. 427/28.06.2012 of the Administrative court – Pleven, First Division, on a. d. no. 490/2012

²¹ Decision no. 12949/18.10.2012 of the SAC, Fifth Division, on a. d. no. 12420/2011

²² Decision no. 1832/03.04.2012 of the ACSC, Second Division, 37th panel, on a. d. no. 3488/2012.

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By a decision of the 28 December 2012, the ACSC repealed a refusal by the National Construction Control Directorate to provide information on the removal of several illegal constructions. The court held that under the APIA may be requested access to specific documents since they are information carriers.²³

Silent refusals

Jurisprudence repealing silent refusals under the APIA continues to be extremely durable. According to this case law, the only recognized by the APIA possibility of proceeding by an obliged body, upon receipt of a valid application for access to information, is to deliver a motivated decision for granting or refusing to provide access by notifying the applicant in writing of its decision.

By a decision of the 13 January 2012, the SAC repealed a silent refusal by the Ministry of Regional Development and Public Works to provide information about a report on an inspection carried out on the activity of “ViK” – Sliven (the water and sewerage supplier). The court held the case law on repealing silent refusals by the administration is constant and in this case there is no reason to depart from it.²⁴

By a decision of the 10 February 2012, the SAC upheld the decision of the Administrative court – Pazardzhik repealing the silent refusal by the mayor of Pazardzhik Municipality to provide information on contracts concluded by the municipality for the provision of services and goods for the period 2007 – 2010.²⁵

By a decision of the 23 February 2012, the ACSC repealed a silent refusal by the governor of the National Social Security Institute (NSSI) to provide information on the lump sum, paid to NSSI employees, beside their basic contractual remunerations, as supplementary remunerations (bonuses for Christmas, Easter, etc.) for the period 2008 – 2010. The court held that a silent refusal on an access to information request is unlawful and on these grounds alone it is subject to repeal.²⁶

By a decision of the 11 May 2012, the Administrative court – Haskovo repealed a silent refusal by the mayor of Harmanli Municipality to provide information about the amounts of sums (fees, travel, stay and other expenses) paid by the municipality for legal services to law offices for the period 2009 – 2012, as well as about court cases, where the municipality has used the services of attorneys for the same period. The court stated that when an obliged body under the APIA fails to fulfill its obligation to act by an explicit and reasoned decision on a request for access to information, it breaches the requirements on the form of the individual administrative act, and on that ground alone its silent refusal is subject to repeal.²⁷

²³ Decision no. 7346/28.12. of the ACSC, Second Division, 30th panel, on a. d. no. 8686/2012.

²⁴ Decision no. 702/13.01.2012 of the SAC, Fifth Division, on a. d. no. 267/2011.

²⁵ Decision no. 2077/10.02.2012 of the SAC, Fifth Division, on a. d. no. 4763/2011.

²⁶ Decision no. 971/23.02.2012 of the ACSC, First Division, 12th panel, on a. d. no. 4593/2011.

²⁷ Decision no. 90/11.05.2012 of the Administrative court - Haskovo, on a. d. no. 62/2012.

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By a decision of the 7 November 2012, the ACSC repealed a silent refusal by the Prosecutor's Office to provide information about which questions are answered by the Prosecutor General and which questions are answered by other prosecutors in his stead. Information was also requested whether the Prosecutor General has received a signal by the same applicant on legal violations related to the sale transaction of the notorious "First Alley" in the Sea Garden of the City of Varna and what measures will he take upon the signal. The court held that a silent refusal under the APIA is unlawful and on that ground alone it is subject to repeal.²⁸

By a decision of the 19 November 2012, the ACSC repealed a silent refusal by the Ministry of Physical Education and Sports to provide the criteria and methodology for state financial support to the sports clubs. The court panel stated that the silent refusal is not provided for under the APIA and the administrative authority was due to pronounce its decision on the request for access to information. According to the court this omission cannot be remedied by exposing the reasons for refusal in the trial phase.²⁹

4. 4. Raising Awareness Campaigns and Trainings on the Access to Public Information Act, the Personal Data Protection Act, and the Protection of Classified Information Act

International Conference *Advocacy for Access to Information – Achievements and Challenges*



Access to Information Programme held the Conference ***Advocacy for Access to Information – Achievements and Challenges*** on June 15 – 16, 2012 in Sofia, Bulgaria

The conference was dedicated to AIP 15 years' advocacy work in the field of access to information.

During the two days conference held by Access to Information Programme on 15-16 June 2012 in Sofia, Bulgaria, leading organizations in the access to information area

²⁸ Decision no. 5946/07.11.2012 of the ACSC, First Division, 12th panel, on a. d. no. 8703/2011.

²⁹ Decision no. 6447/29.11.2012 of the ACSC, Second Division, 33rd panel, on a. d. no. 7222/2012.

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from 12 countries (Armenia, Bulgaria, Canada, Cyprus, Georgia, Macedonia, Poland, Russia, Romania, the Czech Republic, Spain, UK) shared experience in advocacy for better access to information legislation, active transparency monitoring, legal help and access to information litigation. Bulgarian NGOs and journalists presented tactics for using the access to information for public campaigns and investigations.

The participants exchanged successful strategies for the promotion of the right to information. The significance of the International Freedom of Information Advocates Network, established on September 28, ten years ago at a similar conference in Bulgaria, was emphasized. That was also when the decision for marking 28 September as the International Right to Know Day was taken. The increasing impact of 28 September for the advocacy and raising awareness campaigns was emphasized as one of the achievements of the freedom of information (FOI) advocates.

Special attention was paid to the role of the civil society in the gaining momentum Global Open Government Partnership Initiative: <http://www.opengovpartnership.org/>.

http://www.aip-bg.org/en/news/15_Years_Advocacy_for_Access_to_Information_Achievements_and/20120619000440/

The summary of discussions – Achievements and Challenges was disseminated via the Freedom of Information Advocates Network: http://www.aip-bg.org/en/news/Advocacy_for_Access_to_Information_Achievements_and_Challeng/20120716008706/

Organization and Holding of the 10th Right to Know Day Awards Ceremony – 28 September

AIP Held the 10th Right to Know Day Awards Ceremony in Bulgaria on 28 September 2012 at the Bulgarian News Agency, Sofia. AIP opened the event with the [song “Breathe.”](#) dedicated to the right to know. More than 90 attended.



Promotional materials, among which the [Right to Know Day Magnet](#), were distributed to the participants in the ceremony.

The Right to Know Day Awards Committee selected the winners in the [six categories](#) out of 42 nominations. The winners were selected in six categories:

http://www.righttoknowday.net/ceremony12_eng.php.

Pictures are available at: <http://www.aip-bg.org/about/gallery/>

AIP hosted a Study Visit for a Delegation from Ukraina



Access to Information Programme organized and held a study visit in Sofia to present Bulgaria's twelve years of Access to Public Information Act implementation experience and good practices to officials from Ukrainian government institutions and NGO representatives during the week 16-20 July 2012.

Within the three-day Study Visit, the Ukrainian group visited the National Assembly of Republic of Bulgaria; the Council of Ministries; the State Commission on Information Security; the Committee for disclosing the documents of the Former State Security. Representatives of the Commission of Personal Data Protection presented on the functions of the Commission.

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The visit was supported by the Council of Europe and was part of a Joint Programme between the Council of Europe and the European Union.

In 2012, AIP held 7 trainings in the country on how to use public registers and on public bodies obligations for active publication within the framework of the project [Civil Audit of Active Transparency of Government](#) (CAATOG) supported by a grant from the Trust for Civil Society in Central and Eastern Europe. 154 journalists from all regions of Bulgaria attended the 7 trainings:



On March 16, 2012 in Hotel Strimon Spa, the town of Kyustendil, AIP held a training with journalists on how to use public registers and on public bodies obligations for active publication. Local media journalists from Kyustendil, Pernik and Blagoevgrad took part.

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Gergana Jouleva, AIP Executive Director, presented the results from the 2012 audit on institutional web sites with regard to obligations for active disclosure of public information performed by AIP and the special web portal www.publicregisters.info.

Alexander Kashumov, Head of AIP legal team, presented cases assisted by AIP legal team, in which public registers were successfully used by journalists in their investigations. Ivan Mihalev, Editor in Capital weekly, shared his experience in using public registers for investigations.



On March 30, 2012 in the Chamber of Commerce and Industry - town of Vratsa, AIP held a training with journalists on how to use public registers and on public bodies obligations for active publication of information. Local media journalists from Vidin, Pleven, and Montana also took part.



On April 20, 2012 in the town of Plovdiv, AIP held a training with journalists on how to use public registers and on public bodies obligations for active publication of information. Local media journalists from the towns of Stara Zagora and Pazardzhik also took part.

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On May 18, 2012 in the town of Kardzhali, AIP held a training with journalists on how to use public registers and on public bodies obligations for active publication of information. Local media journalists from the towns of Kardzhali, Smolyan, and Haskovo took part.



obligations for active publication of information

On June 29, 2012 in Veliko Tarnovo, AIP held the fifth training out of a series of 7 with journalists from local and regional media. Journalists from Veliko Tarnovo, Gabrovo, Lovech, Ruse and Targovishte took part in the training on how to use public registers and on public bodies



On July 13, AIP held a training with journalists from Sliven, Yambol and Burgas.

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On July 20, 2012 in Radio Shumen at the town of Shumen, AIP held a training with journalists from Shumen, Razgrad, Dobrich, Varna and Silistra on how to use public registers and on public bodies obligations for active publication of information.

In 2012, members of AIP team lectured at a number of trainings at the invitation of different institutions, NGOs and international organizations:

On 1 February 2012, Alexander Kashumov presented AIP experience in a skype-lecture at a training of Supreme Justices of Albania, organized by the Centre for Development and Democratization of Institutions, Article 19, and the Embassy of UK in Tirana.

On February 29 – March 1, 2012, Alexander Kashumov presented at the round table Round Table on Freedom of Information Act and the Amendments to the Personal Data Protection Act and to the Classified Information Act, organized by the OSCE in Montenegro.

On March 1-2, 2012, AIP executive director Gergana Jouleva and the Head of the Legal Team Alexander Kashumov lectured in a training organized by the State Commission on Information Security on the application of the official secret exemption with Information Security Officers from the central government bodies.

On March 15, 2012, AIP executive director Gergana Jouleva and the Head of the Legal Team Alexander Kashumov lectured in a training organized by the State Commission on Information Security on the application of the official secret exemption with Information Security Officers from regional administrations

On 15 May 2012, Alexander Kashumov lectured at training for investigative journalism before journalists from regional radio stations of the Bulgarian National Radio, organized by the “Reporter” Foundation.

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AIP Head of Legal team, Alexander Kashumov lectured at the first Academy on Media Law in South East Europe, organized by the Friedrich Ebert Foundation and OSCE on June 7-8 in Zagreb.

AIP Head of Legal team, Alexander Kashumov lectured at the workshop The Judicial Reform in Bulgaria and the Collaboration and Assessment Mechanism organized by the Center for Media Development and the Konrad Adenauer Foundation on June 22, 2012.

On July 6 and October 24-27, 2012 AIP Head of Legal team, Alexander Kashumov lectured at training for Georgian journalists on how to use the access to information law, organized by the Council of Europe in Tbilisi .

On September 27, 2012, AIP Head of Legal team, Alexander Kashumov lectured at the 11th International Conference "The New Face of the Digitalized Business" organized by the IDG Bulgaria.

On 19-21 October 2012, AIP Head of Legal team, Alexander Kashumov took part in a discussion on "Security Sector Management" as a part of the conference "Crime, Risks, Institutions: Long term Perspectives", organized by the RiskMonitor Foundation in Borovetz, Bulgaria.

On December 15 - 16 , 2012, AIP Head of Legal team, Alexander Kashumov took part as a judge in the Regional Round of the prestigious international competition Price Media Law Moot Court held in Belgrade.

5. Participation in the public debate on issues related to the access to information and the right to freedom of expression

During the year 2012, representatives of AIP team and AIP network of journalists actively participated in the debate for the right of access to information and its restrictions. This debate was covered by TV broadcasts, Monthly Electronic Newsletter and Access Point blog.

The total number of publications in 2012 is 367. Out of these 258 are in national media, 101 are in local media and 8 in foreign media.

Representatives of AIP team participated in 20 radio and 23 TV broadcasts.

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The topics which were mostly covered by the media:

- Litigation – 61 publications
- Right to Know Day – 55 publications
- Active Transparency Rating – 43 publications
- Annual report Access to Information in Bulgaria 2011 – 39 publications
- Civil Audit on Active Transparency of Government – 25 publications

The number of articles published in the Monthly Electronic Newsletter in 2012 is 101 (<http://www.aip-bg.org/publications/Бюлетин/>) under the following headings:

- **News from the Court room** – 40 court cases in which AIP legal team has provided assistance
- **News from the World** - 65 news related to developments in the access to information area
- **Comment by the Lawyer** – 6 publications on different access to information cases
- **From the Coordinators' Network** (from AIP coordinators in the country) - 17 publications under different headings.
- **Interviews** – 11

In 2012, we also disseminated information about AIP activities in the Portal of NGOs in Bulgaria. We have published about:

- The Public Registers Portal
- The Active Transparency Rating
- The Right to Know Day Campaign
- The book Litigation under Access to Information Legislation
- All issues of the monthly FOI Newsletter

The list is available at: <http://www.ngobg.info/bg/users/profile/ngo.html>

Access to Information Programme Publications in 2012



Access to Information in Bulgaria 2011

In 2012, AIP published and disseminated the annual report Access to Information in Bulgaria 2011 (1000 copies in Bulgarian were disseminated to public bodies, MPs, NGOs and media).

Access to Information in Bulgaria 2011, Access to Information Programme, 2012, 119 pages.

ISSN 1314-0515 (online)

ISSN 1313-065X (print)

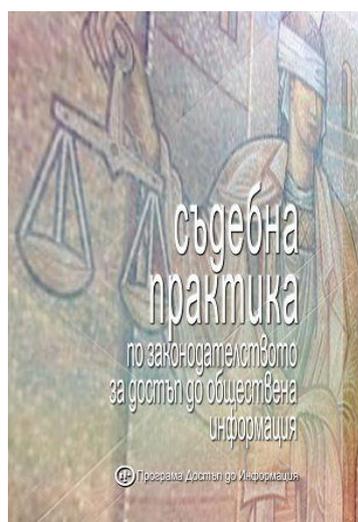
http://store.aip-bq.org/publications/ann_rep_bq/report2011.pdf

The English translation was disseminated to all partner organizations via the International Freedom of Information Advocates Network and is accessible online:

http://store.aip-bq.org/publications/ann_rep_eng/2011.pdf

In 2011 again, the recommendations in the annual report brought to changes in the access to information policies. Part of the recommendations were included in the Bulgarian Government Operational Plan within the Open Government Partnership Initiative.

Book: Litigation under the Access to Public Information Legislation

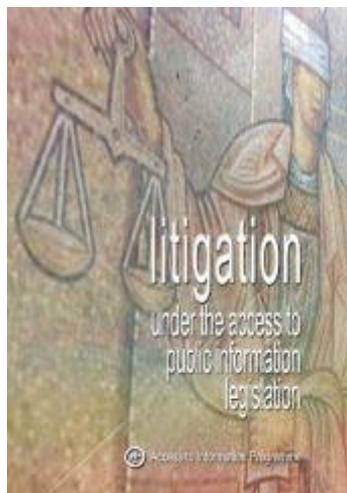


In July 2012, Access to Information Programme launched the fifth book which is part of the continuous analyses we make on the Access to Public Information Act litigation in Bulgaria. The book contains analysis and commentary on the litigation on specific issues related to the free access to information and its restrictions. The book also contains summaries of sixteen court cases which have resulted in changes in the practices and the strengthening of the principles of the right of access to information. Authors of the analytical part are the attorneys-at-law from AIP legal

team Alexander Kashumov, head of the team, and Kiril Terziiski. (*Litigation under the Access to Public Information Legislation, Access to Information Programme, 2012,*

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168 pages, ISBN 978-954-9953-49-7). The book is translated in English and available on AIP web site: http://store.aip-bg.org/publications/books_eng/Litigation_2012.pdf.



Internet Sites of AIP

The Internet site of AIP (<http://www.aip-bg.org>) is regularly updated. Information about ongoing campaigns, news and important court cases, court rulings, comments and recommendations, guidelines and supporting materials on Access to Public Information Act, information on events organized by AIP and other information is published online. All AIP publications are available on the web page, immediately after they are finalized in Bulgarian and English.

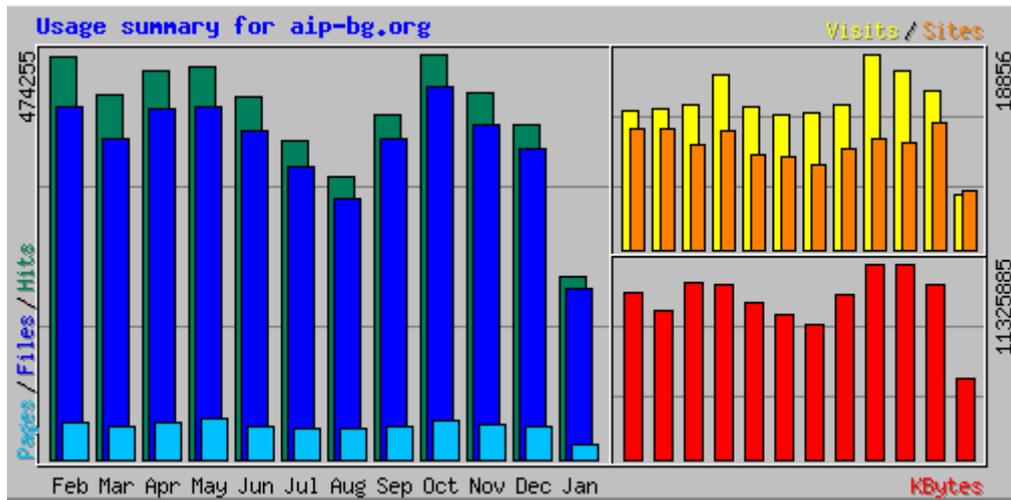
The updated web site of AIP whose content is managed by a web based system part of the Internal Information Management System of AIP allows for an easier navigation among the rich content of the information and training materials, but also for integration and visualization of audit and survey results.

Results from the audit on institutional web sites performed by AIP within 23 January – 16 March 2012 are available on the web site (also in English): <http://www.aip-bg.org/en/surveys/2012/204468/>.

The traffic statistics for the 2012 shows that the number of visits to www.aip-bg.org is: 168,462 (average of 14,038 visits per month). Larger number of visits is registered during months in which AIP ran special campaigns –April – presentation of the results from the institutional web sites survey and the Public Registers Portal; September and October – Right to Know Day Awards campaign for nominations and the awards ceremony. Out of the visits from foreign servers (average of 41 % of all), the largest

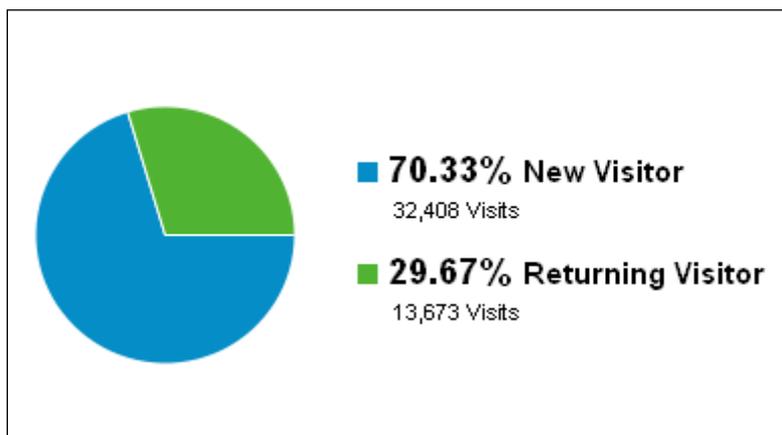
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number comes from the USA, UK, the Russian Federation, Ukraine, Poland, France, Spain, Germany. There are also visits from Armenia, Hong Kong and Brazil.



Statistics for www.aip-bg.org (February 2012 – January 2013)

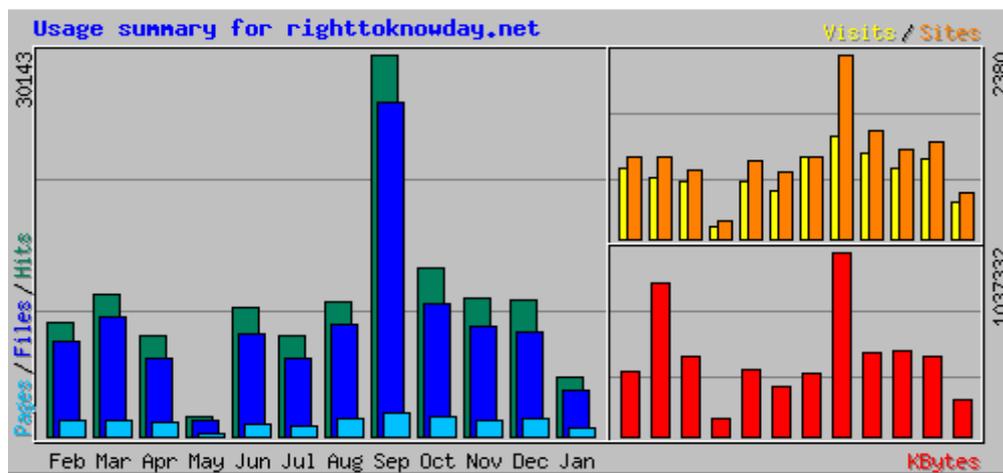
The new web platform of www.aip-bg.org allows for the integration of Google Analytics whose data are slightly different from the general statistics in view of the marketing purposes of GA. It, however, shows that the portion of the new visits of the web site is 70.33%,. Also, 11,233 unique visits (which according to GA are 46,081) are references from other sites (facebook.com, www.publicregisters.info, www.desebg.com, блогът на ПДИ <http://blog.aip-bg.org/>, etc.)



Google Analytics www.aip-bg.org (January– December 2012)

International Right to Know Day

AIP maintains and updates the special web site for the International Right to Know Day – September 28. The peak in the visits of this web site is September – 1,330 visits, with an average for the year 819: <http://www.righttoknowday.net/>

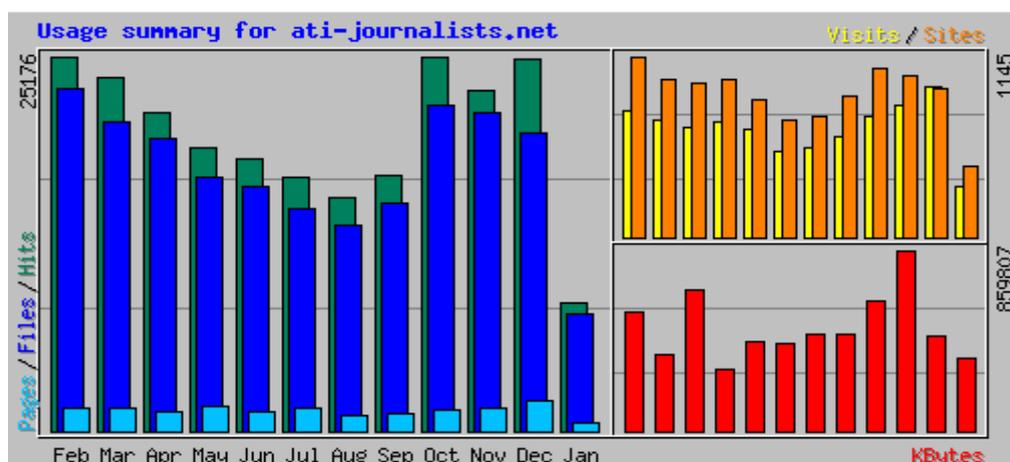


Statistics for the www.righttoknow.net (February 2012 – January 2013)

Access to Information and Journalistic Investigations

AIP also maintains the special web site Access to Information and Journalistic Investigations. The web site contains legislation, journalistic cases and litigation, journalistic investigations, information and training materials, documentaries and short videos. The average number of visits for 2012 is 689:

<http://www.ati-journalists.net/>.



Statistics of the <http://www.ati-journalists.net/> (February 2012 – January 2013)

Access Point blog

<http://blog.aip-bg.org/>

The blog Access Point is additional channel for increasing the efficiency of AIP permanent campaign for the improvement of access to information in Bulgaria. In 2012, AIP posted 39 items followed by 4 comments by users. In February 2012, AIP blog was redesigned and its connectivity with the web site was updated. A subscription list was integrated which at the moment contains 142 subscribers, predominantly journalists, NGOs and citizens.

Web Portal Public Registers

www.publicregisters.info.

On November 30, 2011, AIP launched the web portal *Public Registers*, which contains the results from a survey on the public registers in Bulgaria. It also incorporates the results from the review of the content and the format of the online available public registers. 13,150 visits were registered in 2012 by the statistics of the new portal, out of which 10,600 are unique visits. The visited pages are 28,583.

AIP in Facebook

On its Facebook site, AIP refers links from the *Access Point* blog, from the Monthly FOI newsletter, news from the AIP web site, and publications in other media and partner organizations. 369 people like it. Visits per month vary from 50 to 655. Several albums were uploaded.

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Facebook statistics for AIP page (December 2012 – January 2013)

6. Cooperation on national, regional and international level

In 2012, AIP continued its cooperation with national organizations, international organizations and networks:

Like every year, in 2012, AIP prepared the *right to information* chapter for the annual report of the Bulgarian Helsinki Committee.

Alexander Kashumov co-authored the Handbook for the Investigative Journalist published by “Reporter” Foundation.

AIP experts took part in the discussion meeting organized by the Minister of Justice regarding the judicial system reform held on January 5, February 10, and December 11, 2012.

AIP continued its participation in the OGP meetings – held in Brazil, Dubrovnik, and Rome. AIP also initiated a meeting of OGP active national NGOs. In December 2012, AIP became a member of the Public Board “Transparency” at the Ministry of Transport, Information Technology and Communications.

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AIP continued its cooperation with the Commission for Personal Data Protection, the Ministry of Justice, the Bulgarian Committee for Disclosing the Documents of the Former State Security Service

AIP experts took part in the press conferences of the Association of Telecommunication and Internet Services Users on February 2 and March 6, 2012.

Fani Davidova and Gergana Jouleva participated in the meeting organized by the Commission for Personal Data Protection with NGOs within the Personal Data Protection Day agenda – January 28, 2012; as well as in the Conference *10 Years Personal Data Protection in Bulgaria*.

Gergana Jouleva and Alexander Kashumov attended the traditional annual meeting of *Statewatch* contributors, held in London on 28-29 June 2012.

AIP representatives took part in initiatives of ProMedia, Foundation *Radostina Konstantinova*, the Royal Dutch Embassy, the Council for Electronic Media on issues related to the development of media, the media environment and the investigative journalism.

On September 14, 2012, AIP Executive Director Gergana Jouleva and the Head of AIP Legal Team Alexander Kashumov had a discussion meeting with Ivaylo Kalfin, a member of the European Parliament, as part of the consultation process on the proposed revision of the European Union Directive (2003/98/EC) on the Re-use of Public Sector Information.

AIP Executive Director Gergana Jouleva took part in a public discussion on the Revision of the Directive on Re-use of Public Sector Information organized by MEP Ivaylo Kalfin in Brussels, Belgium on 17-18 October 2012.

In 2012, the number of AIP experts' participations in round tables, discussions, trainings, and initiatives of other organizations is 75.

International Freedom of Information Advocates Network

[\(http://www.foiadvocates.net/\)](http://www.foiadvocates.net/)

AIP took an active part in the initiatives of the International Freedom of Information Advocates Network (FOIANet). AIP is one of the founders of the FOIANet and its

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active member. AIP Executive Director Gergana Jouleva is a member of the Steering Committee of the FOIANet.

The discussion list of the network contains 400 members (organizations and individuals) from around the world. FOI advocates exchange news, experience, discuss legislation and implementation practices.

In 2012, AIP took part in 15 discussions set forth in the FOIANet. Among the topics were:

- Methodologies for measuring transparency³⁰;
- Access to Information Litigation Data Bases;
- The scope of obliged bodies under the access to/freedom of information – state companies, NGOs, etc.;
- Access to the concession contract between the Lithuanian government and a private company for the construction of a Nuclear Power Plant;
- Restrictions to the right of access to information;
- Fees for the provision of information;
- Procedures in different countries regarding the non-execution of court decision or information commissioners/commission's instructions;
- Legal basis for the openness of the government sessions;
- Restrictions to access re preparatory documents in different legal systems;;
- Regulation and practices in different countries related to the financial and asset transparency of public figures.

³⁰ Also see Gergana Jouleva's article: [Measuring Transparency – Is a Global Index Possible and Necessary?](#), published in AIP Monthly FOI Newsletter, issue 11(107), November 2012.

7. Institutional achievements and development

AIP is managed by the Board and the Executive Director. Every year the Board is setting forth the priorities of the AIP foundation and at least twice a year supervises the work of the organization.

Board

Dimitar Totev – Chairperson

Gergana Jouleva, PhD– Executive Director

Luba Rizova

Mariana Milosheva-Krushe

Pavlina Petrova

Petko Georgiev

Svetlozar Zhelev

Yordanka Gancheva

Neven Dilkov

In 2012, the Board of AIP held two session.

On March 22, 2012, in Sofia, in the office of AIP (76 Vasil Levski BLvd, floor 3, apt. 3), was held a regular session of the Board in compliance with Art. 12, Para. 8 of the Bylaws, called by the AIP Executive Director Gergana Jouleva. The Board adopted the Annual report of AIP for 2011 presented by the Executive Director Gergana Jouleva; accepted the budget and the main activities for 2012; and accepted a new member of the Borad – Neven Dilkov, Managing Director of Neterra Ltd.

On December 14, 2012, in Sofia, in the office of AIP (76 Vasil Levski BLvd, floor 3, apt. 3), was held a regular session of the Board in compliance with Art. 12, Para. 8 of the Bylaws, called by the AIP Executive Director Gergana Jouleva. The Board discussed main directions in the work of AIP for 2013, reviewed and adopted the draft-budget for 2013.

Team

The team which has achieved all this is:

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Gergana Jouleva, PhD, Executive Director of AIP

Alexander Kashumov, attorney-at-law Head of AIP legal team

Darina Palova, attorney-at-law

Kiril Terziiski, attorney-at-law till August 2012

Fany Davidova, lawyer

Tereza Mandjukova, lawyer

Stephan Angelov – lawyer

Diana Bancheva, communication coordinator

Nikolay Ninov – coordinator of the countrywide network of journalists

Ralitza Katzarska, coordinator

Since July 2008, AIP signed a contract with BM Consulting Financial Services for accounting service.

The Coordinators' Network

On February 24, 2012, AIP held its annual meeting with the coordinators from the journalistic network in the country in Hotel *Rila*, Sofia. The annual activities report of AIP for 2011 had been sent out to the coordinators in advance in preparation of its discussion. AIP Executive Director, Gergana Jouleva, presented the key achievements of AIP for 2011, and outlined the goals of AIP and its coordinators' network for 2012.

Alexander Kashumov, Head of AIP legal team, presented the results of AIP campaigns with regard to proposed amendments to the Trade Registers Act, the Special Surveillance Means Act, and the Electronic Communications Act. Darina Palova and Fany Davidova, both from AIP legal team, outlined the characteristics of the cases referred to AIP for legal help during 2010. Kiril Terziiski, attorney-at-law in AIP legal team, made a review of the most important developments of the Access to Public Information Act. Diana Bancheva, AIP communication officer, presented the changes in functionality and content of AIP web sites, the *Access Point* blog.

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At the meeting, AIP presented the fifth *Coordinator of the Year* award. Nikolai Ninov, coordinator of the journalists' network, presented the nominations and the selection criteria. The award was given to Ivanka Vateva Georgiev, AIP coordinator in Pleven.

In 2012 again, AIP coordinators, all of them journalists, were active in publishing in AIP monthly FOI newsletter, and in local media in which they covered the annual report *Access to Information in Bulgaria in 2011*, the International Right to Know Day campaign, AIP conference *Advocacy for Access to Information – Achievements and Challenges*, the launch of the book *Litigation under the Access to Information Legislation*.

In 2012, AIP coordinators organized the 7 trainings for journalists in the country under the projects *Civil Audit on Active Transparency of Government* with a focus on *Public Registers and Journalistic Investigations*. Journalists attending the trainings were acquainted with the results from AIP audit on active transparency.

In 2012, AIP coordinators prepared 108 articles. Out of those, 27 were for AIP monthly FOI newsletter and AIP blog *Access Point*. The most active authors were Krastina Marinova (Varna), Ivanka Vateva (Pleven) with 4 texts and Ivanka Lambeva (Kurdzhali) with 3. The other 81 texts were published in local media, the most active being Ivanka Lambeva (Kurdzhali) with 11 publications, Tsvetan Todorov (coordinator in Lovech) with 10, Iva Antonova (coordinator in Vratsa) with 9 publications, Ivanka Vateva (Pleven) - 8, Zdravka Maslyankova (coordinator in Veliko Tarnovo) and Yordan Georgiev (coordinator in Sllistra) – 6, and Diana Boncheva (coordinator in Yambol) – 5.

In 2012, AIP coordinators collected and sent nominations for the Right to Know Day Awards, disseminated leaflets, posters; covered the Awards Ceremony held in the National News Agency in Sofia for local media, provided consultations for citizens and referred information seekers who requested help to AIP.

AIP coordinators referred 18 cases of information refusals in 2012. The highest number came from the region of Vidin (coordinator Penka Milusheva) – 9 and from Smolyan (coordinator Valentin Hadzhiiski) - 3.

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The coordinators in Pazardzhik, Veliko Tarnovo and Gabrovo moved in other cities and have to be substituted. The new coordinators Tina Ivailova, Zdravka Maslyankova, and Ruzha Lyubenova were presented by Nikolay Ninov at the 24 February meeting in Sofia.

Development of the Internal Information Management System

Since the beginning of 2010, AIP has an Internal Information Management System (IMS) which was integrated by Svetlozar Online Company. The IMS contains the following categories: Contacts, Library, Surveys, Cases, Litigation, Administration, Web. The development of the IMS is part of AIP strategy to exploit to bigger extent information technologies to provide services like: legal help, self-education materials; the blog of the organization, etc.

In 2012, the new module *Audit on Institutional Web sites 2013* was incorporated in the IMS integrating updates and improvements in the statistics and cross-checks. The work on the module Litigation has continued.

През 2012 г. беше подготвен нов модул във ВИС – „Проучване на интернет страниците на институциите за 2013 г.” и внесени редица подобрения в системата за статистически доклади и справки. Продължи работата и по модула „Съдебни дела”.

Projects

During 2011, AIP has implemented the following projects:



Pushing for Accountability of Government through Access to Information Legal Assistance and Litigation

Period: *May 1, 2009 – April 30, 2012*

Description: The aim of this project is to push for enforcement of overriding public interest amendments to the APIA in Bulgaria by encouraging and facilitating public demand for public information.

Main project activities:

- Providing consultancy in the AIP office on everyday basis to journalists, NGOs and citizens in cases where they seek information and in cases of refusal;
- Filing applications and submissions to the administrative courts;
- Representing access to information cases in courts;
- Systematizing of the litigation practices;
- Presenting results from litigation on a national conference before lawyers and other interested parties;
- Permanent media campaign on ATI cases and practices through publications in FOI Newsletter, central and local media, FOIAnetwork mailing list, on the website;
- Cooperation with partner organizations.

Expected results:

- Increased awareness of citizens, NGOs, and journalists of their right to access government held information;
- Increased number of successful litigation assisted by AIP when information of high public interest is sought;

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- Disseminated knowledge of successful cases to the public at large;
- More encouraged people to exercise their right of access to information;
- Increased knowledge of public administration to apply the public interest test;
- Analysis of access to information litigation practices in Bulgaria;
- Establishment of more consistent and advanced court practice;
- Increased government openness and accountability in the fields of: public registers, public procurements, public sector services performed by private companies;
- Regional and international exchange of information on access to information litigation.

Donor of the project: Human Rights and Governance Grants Program of Open Society Institute



Trust for Civil Society
in Central and Eastern Europe

Civil Audit of Active Transparency of Government (CAATOG)

Period: *July 1, 2011 – October 1, 2012*

Description: To address problems with active transparency and accountability of government bodies AIP will continue the monitoring on the active disclosure of information online; will analyze the situation with public registers and disseminate knowledge among the more active users – journalists, strengthening its country network; will share experience with members of Freedom of Information Advocates Network partner organizations specialized in monitoring.

Main activities:

- Special survey with regard to public registers and launch of an online interactive handbook;
- Trainings of journalists on how to use public registers and on institutional obligations for active publication;

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- Audit on institutional web sites with regard to obligations for active disclosure of public information on the base of developed criteria and indicators and analysis of the result;
- Systematization and analysis of advocacy work of AIP for improving the situation of access to information – annual report Access to Information in Bulgaria;
- Organization and holding a Monitoring Conference to share experience with FOI Advocates Network organizations.

Donor of the project: [The Trust for Civil Society in Central and Eastern Europe](#) (The CEE Trust)



AMERICA FOR BULGARIA
F O U N D A T I O N
Фондация Америка за България

New Demand for Freedom of Information

Period: April 8, 2010 – April 8, 2013

Project Goals:

- Improve the provision, flow and quality of AIP services on local, national levels, to information seekers and international networks.
- Raise public awareness on new standards in the access to information area and develop tools for self education of information seekers to exercise their right to know.
- Advocate for implementation of new standards in the access to information area.

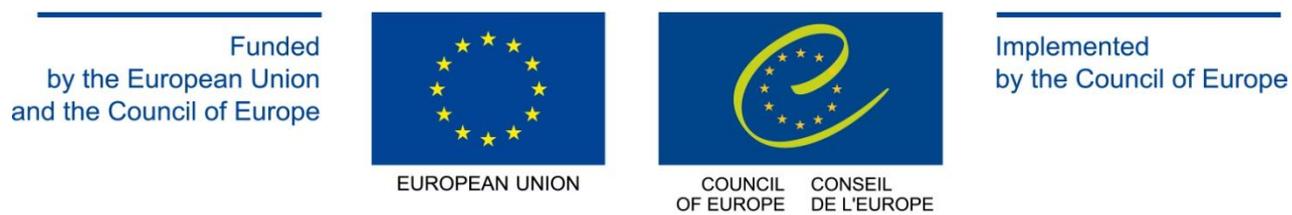
Activities:

1. Development and integration of a new design and structure of AIP web site.
2. Monitoring and comment on access to information legislation and practice; initiation of debates on problematic issues through the enhanced web-resources.
3. Proactive legal help provided electronically.

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4. Dissemination and exchange of knowledge about FOI rights in local and international networks.

Donor of the Project: America for Bulgaria Foundation



Study Visit on the “Implementation mechanisms of the access to information legislation” for the officials and NGO representatives from Ukraine in Sofia, Bulgaria

16-10 July 2012

Description: The purpose was to organize and hold a study visit in Sofia to present Bulgaria’s twelve years of Access to Public Information Act implementation experience and good practices to officials from Ukrainian government institutions and NGO representatives during the week 16-20 July 2012.

AIP prepared the study visit agenda for three days on the access to information legislation, monitoring of implementation, advocacy and good practices established in Bulgaria. Within the three-day Study Visit, the Ukrainian group visited the National Assembly of Republic of Bulgaria; the Council of Ministries; the State Commission on Information Security; the Committee for disclosing the documents of the Former State Security. Representatives of the Commission of Personal Data Protection presented on the functions of the Commission.

Donor of the Project: Council of Europe under a Joint Programme between the Council of Europe and the European Union



**Legal Support of Demand for Public Information -
Building on the Achieved Results and Stabilizing
Positive Practices**

May 1, 2012 – April 30, 2015

Description: The aim of this project is to facilitate the demand for public information by providing legal help in cases and stabilizing the court practice for enforcement of overriding public interest amendments to the APIA in Bulgaria by:

1. Analysis and consolidation of the progress achieved in previous years re public interest in government openness
2. Legal help by AIP team in the search for information of overriding public interest by NGOs, journalists, and citizens.
3. Monitoring of litigation under the access to information litigation and advocacy for unification of court practices.

Coordination and Oversight

Every Monday, the team plans their activities based on the operational monthly plan and ongoing project activities.

Review over the legal help provided by AIP is carried out via regular statistical reports from the Information Management System.

As every year, AIP underwent an audit for verification of the annual financial report of the organization.

Access to Information Programme submits its annual report to the Central Registration Database of NGOs under the Ministry of Justice.

30.01.2013

Sofia

Gergana Jouleva

Executive Director of AIP