



**KEY ACHIEVEMENTS OF
ACCESS TO INFORMATION PROGRAMME (AIP)
*FOR THE PERIOD JANUARY – DECEMBER 2015***

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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 2015, 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.
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 achievements and development.

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The main achievements in these directions are:

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

In 2015, the Access to Information Programme has continued its advocacy work for better legislation on the right of access to information and its exemptions. The year was marked by a broader analysis and a discussion on amendments to the Access to Public Information Act (APIA). Due to high public interest or by invitation, the AIP has also submitted statements in the course of different legislative initiatives. AIP was constituted as a party in cases of the Constitutional Court and the Supreme Courts. As a result, a considerable impact was achieved on the development of the legislative environment related to the regulation of the right of access to public information and to the right to seek, receive, and impart information.

Advocacy for a Better Access to Public Information Act (APIA)

Discussion Meetings in the Council of Ministers on the Draft Law on APIA Amendments

After the conclusion of the public consultation in the autumn of 2014, the Draft Law on APIA Amendments entered the next stage of review and consultation.

The AIP Executive Director Gergana Jouleva and the Head of AIP Legal Team Alexander Kashumov took part in the Council of Ministers' internal consultations with regard to the APIA amendments. Meetings of the working group were held on January 30, and February 3 and 16, 2015 in the Council of Ministers and the AIP office. Specific texts in the Draft Law were formulated and agreed upon during those meetings.

On April 29, 2015, the Council of Ministers adopted the Draft Law with a decision and submitted it to the National Assembly on the same day.

Meetings in the National Assembly Re the Draft Law on APIA Amendments

On May 12, 2015, the AIP submitted to the four responsible parliamentary committees its [statement](#) on the Draft Law on APIA Amendments 502-01-22, introduced on April 29, 2015.

On May 14, 2015, Kiril Terziiski, an attorney from AIP legal team, took part in the [session](#) of the Parliamentary Committee on Regional Policy, Public Works and Local Self-government and presented AIP statement on the Draft Law on APIA Amendments.

On May 21, 2015, Gergana Jouleva and Alexander Kashumov presented the Draft Law on APIA Amendments and AIP statement at the session of the Public Council at the Interaction with Non-Governmental Organizations and Citizens' Complaints Committee. The AIP experts participated in the subsequent discussion and answered the questions that had been set forth. The members of the Public Council supported the Draft Law.

On May 27, 2015, at 14.30, the Executive Director of AIP Gergana Jouleva and the Head of AIP legal team Alexander Kashumov participated in the [session](#) of the Transport, Information Technologies and Communications Committee. As item 2 of the agenda, the Draft Law on APIA Amendments was discussed. Alexander Kashumov presented AIP statement on the Bill.

On May 27, 2015, at 15.30, the Executive Director of AIP Gergana Jouleva and the Head of AIP legal team Alexander Kashumov participated in the [session](#) of the European Affairs and Oversight of the European Funds Committee. As item 1 of the agenda, the Draft Law on APIA Amendments was discussed. Gergana Jouleva answered questions that were raised.

On May 28, 2015, the Executive Director of AIP Gergana Jouleva and the Head of AIP legal team Alexander Kashumov took part in the [session](#) of the leading Interaction with Non-Governmental Organizations and Citizens' Complaints Committee. As item 1 of the agenda, the Draft Law on APIA Amendments was discussed at first reading.

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Gergana Jouleva and Alexander Kashumov presented AIP statement on the Bill and answered the questions of the participants.

On November 3, 2015, the AIP Executive Director Gergana Jouleva and the Head of AIP legal team Alexander Kashumov took part in a preliminary internal discussion on finalizing the report on the Draft Law on APIA Amendments of the leading parliamentary committee on Interaction with Non-Governmental Organizations and Citizens' Complaints with its legal experts and MTITS experts before the regular session of the committee. Gergana Jouleva and Alexander Kashumov took an active part in the discussion and proposed specific editing and formulation of texts in the Bill.

On November 5, 2015, at 14.30, the Executive Director of AIP Gergana Jouleva and the Head of AIP legal team Alexander Kashumov took part in the [session](#) of the leading parliamentary committee on Interaction with Non-Governmental Organizations and Citizens' Complaints. As item 2 of the agenda, the Draft Law on APIA Amendments was discussed before its second reading in a plenary session. Alexander Kashumov presented AIP statement with regard to questions raised on the Bill.

Statement to the Ministry of Environment and Waters Calling for Changes in its APIA Implementation Practices

With regard to the increasing number of cases of access to information refusals by the Ministry of Environment and Waters, grounded on that the APIA provides only for access to information, and not for access to documents, in February 2015, the AIP prepared and sent a statement to the Ministry on the ground of Article 103, Para. 3 of the Administrative Procedural Code. The statement was prepared by the attorney from AIP legal team Kiril Terziiski, and elaborated on the accumulated case law that explicitly support the statement that citizens had the right to documents. The Ministry responded that their position on the issue would remain unchanged.

Statement on the APIA implementation requested by the Sofia Municipality

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At the request of the Sofia Municipality Secretary Ms. Ralitsa Stoyanova, AIP prepared a statement on the electronic blank form of an access to information request and its compliance with the APIA regarding the content of a. The statement was prepared by the attorney from the AIP legal team Kiril Terziiski and submitted by AIP on February 4, 2015.

Statement on the Public Procurement Act

On May 13, 2015, the Access to Information Programme published in the government Public Consultation portal its statement on the Draft of a New Public Procurement Act. The statement presents AIP critical commentary on the provisions of the law related to the proactive publication of information in the “Buyers Profile” section on the contracting authorities’ web sites. The [statement](#) is published on AIP web site.

Statement on the Draft Law on Closing the Committee for Disclosing the Documents of the and Announcing Affiliation of the Bulgarian Citizens to the State Security and Intelligence Services of the Bulgarian National Army

On April 17, 2015, the member of parliament Velizar Enchev introduced a Draft Law on Closing the Committee for Disclosing the Documents of the and Announcing Affiliation of the Bulgarian Citizens to the State Security and Intelligence Services of the Bulgarian National Army. AIP expressed its critical position with regard to such a draft law. In the AIP blog, a commentary by the Head of AIP legal team Alexander Kashumov was published titled “On Whose Way Does the Committee Stay?” The commentary was reprinted by a number of media and a [dispute](#) was held between the opponents in the argument on the Bulgarian National Television on April 24, 2015.

Decision of the Constitutional Court on a Case in which AIP presented a statement

With a Decision No. 2 as of March 12, 2015 on Constitutional Case No. 8/2014, the Constitutional Court of the Republic of Bulgaria ruled unconstitutional the provisions of Art. 250a – 250e, Art. 251 and Art. 251a of the Electronic Communications Act

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(ECA) – promulgated in the State Gazette, issue 41/2007; last amendments promulgated in SG issue 14/2015. The texts were challenged before the Constitutional Court by the National Ombudsman.

In 2014, the AIP was constituted as a party in the case and presented its [statement](#), according to which the challenged provisions contradict Art. 32, Para. 1 and Para. 2, Art. 34 of the Constitution and Art. 8 of the European Convention on Human Rights. The case was against provisions of the ECA which allow for detention of electronic communications traffic data and for access to them in violation of basic legal principles set forth by the quoted normative acts. The arguments set forth by AIP in the statement were referred in the judgement of the Constitutional Court.

Statements on cases before the European Court of Human Rights

In June 2015, AIP and Article 19 submitted a third party intervention to the European Court of Human Rights regarding the case of *MAGYAR HELSINKI BIZOTTSÁG v HUNGARY* [APP NO. 62676/11]. The case was initiated after a complaint under Article 10 of the European Convention on Human Rights in the form of a breach of the right of access to information of the applicant. The applicant NGO requested access to information from a national public body about the ex officio legal counsels' performance, as well as the distribution of the cases among the lawyers registered to perform those functions. Access was denied on the grounds that it did not fall in the scope of the Hungarian Access to Information Law and that it was protected personal data. The national courts upheld the refusal. The challenge in the case was to convince the ECHR to recognize the right of access to information held by public bodies as inseparable part of the right granted by Art. 10 of the Convention. Article 19 and the AIP were constituted as parties in the case and filed a statement before the Second Section of the European Court of Human Rights at the end of June 2015.

In August 2015, the AIP and partner organizations filed a request to the ECHR for presenting *amicus curie* in the case of the Hungarian Helsinki Committee v. Hungary (App. No. 18030/2011) under Art. 10 of the European Convention on Human Rights. The subject of the case was similar to the previous one but the case was heard by the Grand Chamber of the ECHR. The request was granted and AIP and Article 19,

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Medial Legal Defence Initiative, the Campaign for Freedom of Information, and the Hungarian Civil Liberties Union submitted a third party intervention before the ECHR Grand Chamber in September 2015. The challenge was that the European Court on Human Rights recognizes the right of access to information held by public bodies as inseparable part of the right granted by Art. 10 of the Convention. This would be the first final decision of the Grand Chamber on the issue. The *amicus curie* is also important because it is a counterpoint of the intervention submitted by the government of the UK arguing that the right of access to information is not and should not be recognized as part of the right under Art. 10 of the Convention. The moment is important as one unfavorable judgment would turn back the ECHR case law back with the considerable progress on the issue during the past several years.

Meeting with the Commission for Prevention and Ascertainment of Conflict of Interest regarding the publicity of the conflict of interest declarations

After the public position of the AIP regarding the publicity of the declarations that are due under the Law on Prevention and Ascertainment of Conflict of Interest (LPACI), the Commission sent an invitation and held a meeting between its members and the AIP Executive Director Gergana Jouleva and the Head of AIP legal team Alexander Kashumov. Gergana Jouleva presented the results from the audit on the Internet sites of the public bodies, showing that a high number of institutions do not publish online the declarations under the LPACI submitted by their public officials. Statements of the Commission for Personal Data Protection (CPDP) were discussed with regard to unclear interpretation and application of Art. 17, Para 2 of the LPACI. Participants in that meeting agreed to hold a meeting in the beginning of 2016 with experts from the CPDP, the AIP and the Commission for Prevention and Ascertainment of Conflict of Interest to discuss the problematic issues.

Commentary on the Draft Regulations on Access to the Documents of the Financial Supervision Commission

On August 31, 2015, within the public debate on proposed amendments to the Regulations No. 45 as of 2012 on Access to the Documents of the Financial Supervision Commission, the Head of AIP legal team Alexander Kashumov prepared and published a commenatary on the draft regulations pointing out that it would

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contradict the legal regulations and the established court practices and would create obstacles before public access to information. The position was re-published in the national [Dnevnik](#) daily.

A Statement on the Draft Law on Preventing Corruption of High Government Officials

In issue 6 (138) of the AIP FOI monthly Newsletter, an analysis on the [Draft Law on Preventing Corruption of High Government Officials](#) by the Head of AIP legal team Alexander Kashumov was published. The author Alexander Kashumov, Head of AIP legal team, holds a critical position arguing that the draft law combines provisions from two effective laws leaving the majority of the texts ambiguous and contradicting.

Evaluation of the activity: The work of the AIP team related to monitoring and advocacy for better legislation of access to information, transparency and accountability of government is a core and strategic activity of the organization since its establishment.

The focus of the 2015 advocacy work was the participation in the debates on the Draft Law on Amendments to the Access to Public Information Act and participation of the team members on the discussions of the National Assembly responsible committees.

Products: statements, publications, media debates

Necessary resources for the activity: Two lawyers from the AIP team and the AIP Executive Director are engaged in the monitoring of the legislative initiatives, research of the European and foreign legislation, preparation of statements, their presentation in working groups, parliamentary committees and media participation. The AIP communications coordinator is involved in the promotion of the statements and the systematization of the media coverage of the public debates and the participation of AIP team experts.

2. Monitoring of access to information provision practices of obliged bodies

The systematization of the access to information seeking and provision practices is based on:

- Systematization of cases referred to AIP for legal help. Records of cases, court cases, and developments on them in the Internal Information Management System allow to draw statistics. These data are an indicator for problematic issues in the implementation of the Access to Public Information Act (APIA). Analysis of the cases, referred for legal help and consultation in 2015 is made in part three of the current report;
- Systematization and analysis of court practices on cases when administrative decisions for refusals to provide access to information were appealed – also presented in part three of the report;
- An assessment of the active transparency of the institutions.

In 2010, AIP had a web based platform developed for assessment of the level of implementation of the obligations for proactive publication of specific categories of information on institutional web sites. The platform is a module in the Internal Information Management System (IMS) of the AIP. The results from the assessments are available on AIP web site in Bulgarian¹ and in English.²

In 2015, within the period 23 February – 23 March, a team of Access to Information Programme reviewed and evaluated 544 web sites of 544 executive bodies at a central, regional, and local level, and also public-law entities and independent state bodies.

¹ http://www.aip-bg.org/surveys/2015_година/103490/

² <http://www.aip-bg.org/en/surveys/2015/101758/>

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The assessment was made on the base of 72 – 81 indicators, grouped in 5 sections, covering the standards for proactive publication. The team had to assess if the following information was available:

- Institutional – legal basis, functions, services, information resources, data sets;
- Organizational structure, contacts;
- Operational information – decisions, strategies, plans, activities;
- Financial and other transparency – budget and financial reports, contracts, conflict of interest declarations; etc.;
- The availability and the content of the Access to Information sections

Within the audit, 542 electronic requests were filed for a copy of the orders assigning the information officers under the APIA within the respective public bodies and their job descriptions.

The IMS allows for the visualization of the [results by indicators](#), [by institutions](#), as well as [statistics of the responses](#) to the e-requests. The accessibility of the assessment indicators and the possibility for different comparisons is an important advocacy tool for enhanced transparency of the institutions and has contributed to the active transparency of the institutions providing a working model to apply.

In order to visualize the development in the transparency of the public bodies, AIP launched an updated [2015 Active Transparency Rating](#). The level of transparency was evaluated on the base of 72 (81 for the municipalities) indicators which automatically received quantitative assessment. The possible total was 75.4 points, and for the municipalities – 88.4. The web based and online accessible platform gives the possibility for different comparisons by the type of the assessed institutions.

[2015 Active Transparency Rating of the Municipalities in Bulgaria.](#)

[2015 Active Transparency Rating of Central Government Bodies in Bulgaria](#)

[2015 Budget, Financial Transparency and Integrity Map of Municipalities of Bulgaria](#) was updated to illustrate the fulfillment of obligations for online publication of budgets, financial reports, information under the Public Procurements Act, and information related to public officials' integrity.

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The results from the 2015 audit on institutional web sites and the 2015 Active Transparency Rating were presented on April 15, 2015 at the Press Club of the Bulgarian News Agency, Sofia and during the Access to Information Days in the cities of Veliko Tarnovo, Gabrovo, Kardzhali and

Haskovo.

In the course of the audit, the AIP team prepared statements regarding the practices in some institutions to refuse to provide access to information by e-mail or to require electronic signature to the request. The statements were published on AIP web site³ and sent to the respective administrations.

The analysis of the results from the audit was published in AIP Monthly FOI Newsletter⁴ and is part of AIP annual report "Access to Information in Bulgaria."

This traditional report (15 reports have been issued since the adoption of the APIA in 2000) presents systematized results from the monitoring of the implementation practices during the past year, analysis of the legislative changes and the litigation on the APIA implementation. The report also contains recommendations towards the legislative and executive bodies in Bulgaria for the improvement of access to information provision practices.⁵

Evaluation of the Activity: The monitoring of the access to information provision practices is a core and strategic activity of AIP. During the years, the methodology and the tools for monitoring and systematization of results have been developing.

³ http://www.aip-bg.org/surveys/Свързани_въпроси/206673/

⁴ http://www.aip-bg.org/publications/Бюлетин/Активно_публикуване_на_информация/106109/1000990422/

⁵ <http://www.aip-bg.org/en/publications/annualreports/>

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The monitoring of the access to information provision practices is interlinked with another strategic activity of AIP – the legal aid. During the years, AIP has developed and elaborated its own internal information management system (IMS). Specific IMS modules for the monitoring are the “Cases”, “Court Cases”, and “Surveys.” The separate data bases in the IMS related to AIP everyday work are unique. The product is web based. The annual reports “Access to Information in Bulgaria” give a complete picture of the developments in the area and outline the problems, as well as the possible solutions for their overcoming.

Products: A snapshot of the level of proactive publication of information online by indicators and by institutions, a momentary Active Transparency Rating, a Map of Financial and Budget Transparency of the municipalities, Comparative Ratings of active transparency of institutions through the years, Analytical Report on the state of the access to information presenting the state of active transparency, the legislation, problems with access to information seeking, the litigation under the APIA and recommendations towards the legislative and executive bodies.

Necessary resources:

1. Four lawyers, who provide legal help and record the legal consultations, the documents and the time spent in the IMS data base;
2. Lawyers, reviewing and indicating new legal obligations for proactive online publication;
3. Methodology analyst to reflect the new obligations in the system for monitoring and evaluation of the public bodies Internet sites;
4. System administrators from the company Sveon to update the system for monitoring and evaluation;
5. Researchers who review the institutional web sites, assessing them on the base of indicators, downloading and uploading documents in the IMS, processing the responses to the e-requests and the obtained information;
6. Five experts to analyze the results from the monitoring of the FOI practices during the year and prepare the AIP annual report “Access to Information in Bulgaria;”

3. Legal aid in cases of access to information seeking and refusal, including representation in court

General Review

Provision of legal aid is a priority activity of Access to Information Programme. In 2015, in some cases the AIP provided legal assistance at the initial stage of seeking information, when the legal team provided advice and/or prepared a request for access to information. In another category of cases legal help was provided following an already issued refusal of access to public information.

An essential part of the legal aid provided by the AIP's legal team is the preparation of complaints to the court and representation of requesters in court (further information in the next section)

Number of Cases Referred for Legal Help

The number of cases referred to AIP for legal help within the period January – December 2015 is 321.⁶ **16** cases were referred from AIP coordinators in the country. In the rest, 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 – **290** instances;
- Next largest group of cases is related to violations of the right of personal data protection granted by the Personal Data Protection Act – **13** instances;
- In a few cases, we have given legal advice with regard to violation of the fundamental right to seek, receive and impart information – **11** instances.

⁶The number of consultations is twice higher – 804, since in some cases more than one consultation was provided.

Most Active Groups of Information Seekers

AIP experience shows that most frequently the APIA is used by citizens, journalists and nongovernmental organizations (NGOs). In 2015, the largest number of consultations was provided to citizens who had sought the assistance of AIP in **141** instances. In **86** cases, NGOs asked for legal assistance, while **67** cases were referred to AIP by journalists and AIP coordinators (all of them journalists) from central and local media. In **19** cases, the legal team of AIP was approached for legal advice by public officials.

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 - **117** and **96** cases respectively.

Less frequently, information was sought from public-law bodies and organizations – in **16** cases, regional units of the central executive bodies – **13** cases, the judicial power bodies – **25**, independent government bodies – **9**, etc.

There are **25** registered cases in AIP data base with no corresponding institution. These are cases in which our team has been approached for a general advice on the law or on the litigation process.

Most Frequently Used Grounds for Refusal

In 2015, the number of registered silent refusals remains high – **24**. Out of the grounded refusals, the most are related to the third party interests' exemption – **24**, and the personal data protection – **15**. The preparatory documents exception under Art. 13, Para. 2 of the APIA gave grounds to 10 refusals and the trade secret exemption – to two.

Frequently sought information

During 2015, the AIP team provided legal help in cases which aimed to reveal different types of information, the most frequently sought being in the following areas:

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Information of Public Money Spending

- A request to the Regional Health Insurance Fund about the amounts paid to the medical institutions in the Region of Smolyan in 2014;
- A request to the Ministry of Interior about the amount of money spent for the seeking of the former Chairperson of the State Agency for National Security Petko Sertov;⁷
- A request to the Ministry of Culture regarding the exhibition “The Saga of the Thracian Kings” held in the Louvre in Paris in April 2015 – budget, sponsors, etc.
- A request to the Regional Governor’s Administration – Vratsa about its new official web site – which is the company that developed it; what was the budget spent, etc.
- A request to the Ministry of Regional Development and Public Works about the allocated funds for the emergency repair of the water line Dobridol – Lom and the measures undertaken by the ministry against the incompliance with the contract by the contracted company;
- A request to the Municipality of Pernik about the documentation on the terms of reference and the implementation of the project „The Family in Focus”, supported by a loan from the International Bank for Reconstruction and Development;
- Municipal subsidy spending by the community center “Ivan Vazov” in the municipality of Sofia;
- Contracts and annexes signed by the Municipality of Pernik with local, regional, and national mass media for the period encompassing the two terms of government of the former mayor;
- The contracts between the State Company *Bulgarian Maritime Training Center* and the private company *Navigation Maritime Bulgaria* for the rent of two ferries;

⁷ The former Chairperson of the State Agency for National Security Petko Sertov was announced as a missing person for 38 days in December 2014.

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- Information about the results from the implementation of the national program “Security” of the Ministry of Labor and Social Assistance and the Ministry of Interior from the Regional Governor’s Administration – Lovech;
- The total amount of funds spent on the storage and processing of equipment for the protection of the population, stored by the Municipality of Pernik;
- A request to the Municipality of Panagyurishte for the budget within the contract for cleaning of the bed of the river of Elishka;
- A request to the Municipality of Tsarevo about the money collected from concession and rent contracts of the Black Sea Beach *Koral* and their respective spending in line with the purposes provided by Art. 22a of the Law on the Management of the Black Sea Coast.
- A request to the Ministry of Finance about the funds allocated from the state budget to the Ministry of Justice for annual support of NGO project related to protection from domestic violence, as well as the financial reports on the implementation;
- The contract between the Social Assistance Agency and the Bulgarian Posts with regard to the payment of supplementary social welfare benefits to disabled people;
- A request to the Ministry of Foreign Affairs with regard to the state budget money spent on the holding of the national referendum in October 2015 for Bulgarians abroad.

Information on inspections and control activities

- A copy of an inspection report of the Public Inspection Financial Agency following reported alleged wrongdoings in the Municipality of Sevlievo;
- A request to the “General Labor Inspectorate” Executive Agency for inspection records and decisions ascertaining alleged wrongdoings from the;
- Three reports of the General Inspectorate at the Council of Ministers on inspections held in the government residential and relaxation complex *Boyana*;
- Results from an inspection carried by the Children Protection Agency after a report for alleged domestic violence;

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- A request to the mayor of the Region of Vitosha – Sofia for a copy of an order for removing illegal construction;
- A request to the Ministry of Economics for permissions for transfer of firearms issued by the Interministerial Commission for Export Control and Non-Proliferation of Weapons of Mass Destruction with regard to the *Videks JSC*.
- A request to the Consumers' Protection Commission regarding the signal sent to the Prosecutor's Office on the case of children's shoes with erotic pictures;

Transparency and accountability of the administration

- A copy of the conflict of interests declaration of a municipal official from the Municipality of Plovdiv;
- The names and the positions of the members of the Single Authority for Management of the Mineral Resources at the Ministry of Energy;
- Information about the 2014 salaries (the highest, the lowest, the average) corresponding to specific positions within a certain institution, as well as the bonuses distributed by type of position held;
- A copy of the order of the Sofia Municipality Mayor for appointing the Chief Architect of the capital;
- The remunerations of the Governor and the members of the Governing Council of the Bulgarian National Bank;
- A request to the Sofia Municipal Council (SMC) for access to a specific mayor's official trip order of the Chairperson of the SMC - purpose, destination, report;
- A request to the Mayor of Ruse for access to the 2014 reports on the Operational programme *Communal Activities*;
- A request to the mayor of the Sofia municipality about the sanctions imposed on municipal officials for incompliance with regulations of the municipality for the past five years;
- A request to the Ministry of Interior about the career performance of the head of Criminal Police Department at the Regional Directorate of the Mol – Varna and the head of the 3rd District Police Station at the Regional Directorate of the Mol – Varna;

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- A request to the Municipality of Bozhurishte about the job descriptions of officials in the municipal administration from 01.10.2014 to 21.07.2015, as well as information about the civil contracts signed after 01.10.2007 to 2015;
- A request to the Minister of Culture for the protocol from a competition for a Director of the State Puppet Theater;
- Information from the Ministry of Interior about the gender balance in the ministry and its regional structures;
- A request to the Ministry of Foreign Affairs about the level of implementation of the 2014 National Strategy for the Bulgarian citizens and the Bulgarian communities around the world;
- A request to the Ministry of Foreign Affairs about the diplomatic staff, for which there was information of being linked to the former State Security Services.

Urban Planning and Road Infrastructure

- A request to the “Road Infrastructure” Agency for information about the repair and maintenance activities performed by the Regional Road Management – Vratsa – types of activities; budget spent, etc.
- Copy of the contract between the Municipality of Varna and a company for painting the bicycle lane in the city;
- Information about finishing works on the water sewerage network in a street of the city of Pernik;
- A request to the Municipality of Plovdiv for the implementation of a project for the reconstruction and renovation of the Central Park (Tsar Simeon’s Garden) in the city and Ruski Boulevard;
- Reconstruction of the tram tracks on the Bulgaria Boulevard in the Sofia Municipality – implementation of the public procurement, inspections, sanctions, etc.;
- A request to the Sofia Municipality about the project for reconstruction of the underpass at the National Palace of Culture in 2012, including information about the current maintenance, warranty periods, sanctions, etc.

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Environmental Information

- The decision of the Ministry of Environment and Waters for allowing the issuing of an Integrated Pollution Prevention and Control (IPPC) permit of the “Thermal Power Plant Bobov Dol” EAD, as well as a copy of the permit;
- A request to the MEOW for information about the contract between the ministry and the Municipality of Yambol for the construction of a regional system for waste management in the region of Yambol;
- A request to the Regional Inspections on Environment and Waters for the coordination of an investment plan under the Environmental Diversity Act;
- A request to the Regional Inspections on Environment and Waters – Sofia for access to the measurement data from the automatic measuring station on the quality of the air for the period January 1 – May 31, 2015;
- Information about the method of measuring the background radiation in Bulgaria in relation to the fire in the area around the Nuclear Power Plant – *Chernobil* in July 2015;
- A request to the Director of National Park *Vitosha* for information about the oversight of the implementation of the contract under the Operational program *Environment* for drafting a new management plan for Vitosha.

Animal Protection

- A request to several municipalities about the undertaken measures under the Animal Protection Act for the decrease of the number of stray animals in their regions;
- A request to the Director of the Regional Directorate on Food Safety– Varna about the internal operational regulations of the stray animals shelter in the city, its activity schedule, copies of the contracts with the municipalities served by the shelter; copy of the contract with the vet that is working in the shelter;
- A request for access to information to the Municipality of Kuystendil related the euthanasia of stray dogs during the spread of brucellosis;
- A request to the Regional Health Inspection about the number of people being bitten by stray dogs in the city of Varna for the period 2013 – 2015;

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- A request to the Food Safety Agency about the registration and activities of a mink farm in the territory of the village of Luyben Karavelov, the Region of Varna.

Management of state and municipal property

- A request to the Mayor of the Region *Lozenets* – Sofia Municipality regarding the ownership of a property located in the Park “Dyado Slaveykov’s Place;”
- A request to the Commission for Protection against Discrimination about the location, condition and use of the building, which houses the CPD ;
- A request to the Municipality of Pernik regarding the procedure of renting parking-places under the so called “official subscription;”
- A request to the Municipality of Bozhurishte about the revenues for the municipal budget from renting municipal property for a certain period of time;
- A request to the Municipality of Bozhurishte for a copy of a rent contract for municipal property;
- A request to the Mayor of the Region *Lozenets* – Sofia Municipality for access to decisions defining specific property as municipal property;
- A request to the Ministry of Healthcare regarding the alleged sale of a piece of land, part of the yard of the Regional Multi-profile Hospital for Active Treatment “Doctor Stephan Cherkezov” JSC – Veliko Tarnovo.

Access to Information and Judiciary

- A request to the Regional Court – Razlog about the number of cases initiated by the *Yulen* JSC;
- A request to the Supreme Judicial Council for access to the prosecutor's decision on the case of murder of the jaguar Alonso who had escaped from the Lovech Zoo in the summer of 2014 ;
- A request to the Supreme Judicial Council about the ensuring of social and living conditions and meeting housing needs of members of the Supreme Judicial Council, who do not have housing in the city of Sofia – total budget, copies of signed contracts, etc.

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- A request to the Prosecutor's Office for information about the establishment of an anti-corruption unit within the prosecutor's administration, its staff and performance, etc.

Information about decision making processes

- A request to the Chairperson of the Municipal Council – Sliven for the minutes from the sessions of the council;
- A request to the Municipality of Krivodol for access to the record of proceedings from the past three sessions of all commissions, councils and other bodies at the municipality with community members;
- A request to the Chairperson of the Municipal Council – Bozhurishte for access to all minutes from the sessions of the council for the period 2005 – 2015;
- A request to the chairperson of the National Assembly for access to the transcripts of the Ad Hoc Committee for examination and assessment of the energy situation in the Republic of Bulgaria.

Access to Information for the Purposes of Specific Journalistic Investigations

- A request to the Ministry of Interior for access to an order of the head of the 1st Regional Police Station of the Sofia Directorate of the Mol to cancel the order imposing penalty - an investigation of "Lords of the Air" for wrongdoings of the police officers;
- A request to the General Labour Inspectorate for access to the collective contracts of several energy companies – the Nuclear Power Plant *Kozloduy*, the Thermanl Power Plant *Maritsa Iztok -2*, *Maritsa Iztok* Mines, etc.
- A request to the Ministry of Finance for access to the correspondence between the MF and the (State) Energy and Water Regulatory Commission, the Ministry of Economics and Energy and the European Commission regarding the case of alleged illegal state assistance, stemming from the long-term contracts signed with the Thermanl Power Plant *Maritsa Iztok -1*,

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Thermanl Power Plant *Maritsa Iztok -3* and the Hydroelectric Plants for the period since 2014 to 29.06.2015.

Litigation

Statistics

The AIP legal team continued providing legal help to citizens, NGOs and journalists supporting court cases against refusals of access to information. In 2015, the AIP legal team has prepared **60** complaints and written submissions to the courts, assisting information seekers (**24** in cases led by citizens, **21** – by NGOs, **15** – by journalists).

In 2015, AIP legal team drafted a total of **42** complaints and appeals to courts. First instance complaints – **31** (Supreme Administrative Court – **4**, Administrative Court – Sofia City – **20**, Administrative Courts in the country – **7**), cassation appeals – seven and appeals against rulings – **4**.

Out of the **31** complaints filed before first instance courts, **24** were against explicit refusals to provide the information sought, and seven – against silent refusals.

In 2015, AIP legal team provided representation in court on **54** court cases against refusals to provide access to information. In the same period were prepared **18** written submissions to different courts.

In the same period different courts issued a total of **68** decisions and rulings on court cases where AIP provided legal assistance (Supreme Administrative Court – **33**, Administrative Court – Sofia City – **22**, Administrative Court – Sofia District – **2**, other Administrative Courts in the country – **11**). In **49** cases, the courts ruled in favor of information seekers, supported by AIP, and in **19** cases – in favor of the administration.

The “public information” concept

By decision⁸ of 19 January 2015, the Supreme Administrative Court (SAC) upheld the Administrative Court – Veliko Tarnovo decision repealing the refusal by the mayor of Veliko Tarnovo Municipality to provide information on the reconstruction of a residential building part of a protected cultural heritage. The refusal was grounded on the claim that the information was not public, was related to procedures under the Law on Spatial Planning, and only interested parties had the right to access to it. The court held that the information was public and access to it offers the possibility to enhance transparency and accountability of the municipality in an activity sensitive for society – preservation of architectural cultural heritage and building the city’s image, i.e. there is an overriding public interest in disclosure of the information.

By decision⁹ of 4 February 2015 the Administrative Court – Yambol repealed a refusal by the Yambol Municipality Secretary to provide information on the institution’s income and expenses relating to all completed litigation cases between January 2011 and December 2013. The refusal was grounded on the claim that the information is not public in the meaning of the APIA, since it did not exist as such and had to be compiled for the purposes of the request. The court noted that the information is public under the APIA. This information was in possession of the Municipality and no further efforts had to be made by the municipal administration in order to gather and generate the data. The court instructed the Municipality’s Secretary to provide the information sought. This decision has been appealed by the obliged subject. A decision is pending.

By Decision¹⁰ of 13 May 2015, the SAC repealed a decision of the Administrative Court Sofia – City as well as the refusal of the Sofia City Prosecutor’s office (SCP) to provide information about the former work as an investigator of a current member of parliament. The refusal was grounded on the claim that the requested information was not public under the meaning of the APIA. The court assumed that the

⁸ Decision no. 514/19.01.2015 of the SAC, Seventh Division, on a. c. no. 5399/2014.

⁹ Decision no. 18/04.02.2015 of the Administrative Court – Yambol, 6th panel, on administrative case no. 259/2014.

¹⁰ Decision No. 5400/13.05.2015 of the SAC, Fifth Division on a.c. No. 9195/2014.

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information was public although it did not relate to the overall work of the Prosecutor's Office of the Republic of Bulgaria, but to a single magistrate. As far as information is requested about the number of the pre-trial proceedings and investigation cases assigned; the number of conclusion reports and completed investigations and inspections by a certain magistrate, it was undoubtedly generated and held by the obliged body, and thus is official public information under the meaning of Art. 11 of the APIA. In their judgment, the SAC also pointed out that considering the type of the requested information, the provision of Art. 5 of the Law on the Judiciary was applicable in the current case. It provides for the citizens' right to information about the work of the judiciary and respectively an obligation for the judicial authorities to ensure openness, accessibility and transparency of its activities. The decision of the SAC is final.

By Decision¹¹ as of 25 May 2015, the SAC upheld the reopening of the refusal of the Chief Secretary of the Ministry of Transport, Information Technologies and Communications (MTITC) to provide access to the contract, its annexes and implementation reports signed with the "BDZ – Passenger Services" EOOD (the national railway transport company) for the provision of the public service "rail transport of passenger." The refusal was grounded in the argument that the requested information was not public under the meaning of the APIA and was not due to that law, but as the contract was signed after a public procurement tender, the Public Procurements Act applied. According to the PPA, the contractors sent the information to the Public Procurements Register which was online. The SAC upheld the conclusion of the first instance Administrative Court Sofia – City that the requested information was public. The information about signed contracts by the executive bodies and the level of their implementation is undoubtedly information which serves to form public opinion on the work of the institutions. The decision is final.

¹¹ Decision No. 5972/25.05.2015 of the SAC, Fifth Division on a.c. No. 6396/2014.

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Access to Information – Access to Documents

By Decision¹² as of 22 January 2015, the Administrative Court – Yambol repealed a refusal by the Yambol Municipality' Secretary to a copy of an extrajudicial settlement concluded by the municipality and a construction company relating to a certain court case. The refusal was based on the claim that under the APIA may be requested information, but not specific documents. The court held that the law puts a sign of equality between the information contained in a document and the document itself. In this respect, the request of a copy of a document is equivalent to a request for access to the information contained therein. The court's decision was appealed by the Municipality of Yambol and a court hearing by the SAC is pending in February 2016.

By Decision¹³ as of 9 February 2015, the Supreme Administrative Court (SAC) repealed the first instance decision along with the Targovishte Municipality Deputy Mayor's refusal to provide a copy of the contract for sale of a municipal real estate property to a private company. The justices held that the material bearer of public information – the actual paper document – is not something that is requested for its material substance, but for the information contained therein. Furthermore, the justices held that the disclosure of a contract concluded by an obliged body is falling in the scope of a set by the APIA legal presumption of the existence of an overriding public interest in disclosure. Thus, the Deputy Mayor had no legal grounds to refuse provision of a copy of the contract. The decision is final.

By Decision¹⁴ of 30 March 2015, the Administrative Court – Sofia City (ACSC) repealed a refusal by the National Construction Control Directorate's Chief Secretary to provide information concerning inspections of the legality of facilities in the Bansko ski zone in the "Pirin" National Park to the WWF – World Wildlife Fund. The refusal was grounded on the argument that access to documents was requested which was not due under the APIA. The court held ungrounded the argument that only information could be requested under the law. As far as the documents are a

¹²Decision No. 9/22.01.2015 of the Yambol Administrative Court, First Panel on a.c. No. 256/2014.

¹³Decision no. 1399 /09.02.2015 of the SAC, Seventh Division, on a.c. No.4960/2014.

¹⁴Decision no. 2148/30.03.2015 of the ACSC, Second Division, 35th panel, on a. c. no. 8799/2014.

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material bearer of public information and the requestor could not know in detail what their content was, they could not identify the specific information they would like to obtain. The decision was appealed by the Directorate before the SAC and a court hearing is scheduled for June 2016.

By Decision¹⁵ as of 10 December 2015, the ACSC repealed the refusal of the Sofia Municipality administrative secretary to provide access to the mayor's order regarding the organization and control over the record management and the implementation of the administrative tasks within the municipality. The refusal was grounded on the argument that the request did not comply with the requirements of the APIA, but is a pretence for the provision of a document. The court upheld that the Sofia Municipality chief secretary had wrongly assumed that the APIA did not provide for requesting access to documents. It is irrelevant to the obligation for provision if the request was for a specific material carrier of information or was a description of the information. The material carrier of information – the mayor's order in the current case – is not something that is requested for its material, but for the information that it contains. This means that the access to the public information is equal to the obtaining of the document that contains that information. The decision is subject to appeal.

By Decision¹⁶ as of 16 December 2015, the Administrative Court – Blagoevgrad repealed the refusal of the Director of the Basin Directorate for Water Management – West Aegean Region to provide a copy of the order assigning an official responsible under the APIA and the job description of that official. The grounds for the refusal were that the APIA did not provide for requesting access to specific documents, but only for access to information. The court upheld that the public body should have granted access to the requested copy of the job description. Regarding the copy of the order, the public body should have applied the procedure of seeking consent and in case that the order contained personal data of the public official, to disclose the requested information by excluding those data. The decision is subject to appeal.

¹⁵Decision No 7719/10.12.2015, ACSC, Second Division, 24th Panel, a.c. No. 9191/2015.

¹⁶Decision No. 1988/16.12.2015 of the Administrative Court – Blagoevgrad on a.c. No. 297/2015.

Protection of the interests of Third Parties

By Decision¹⁷ as of 9 January 2015, the SAC upheld the repealing of the refusal of the National Customs Agency to provide information if the former head of the Customs Office – Kyustendil was prosecuted for improperly incurred fuel costs established by the "Internal Audit" Department, which constituted damages to the Customs Office – Kyustendil. The refusal was grounded in the lack of the third party's consent although the request sent to the former head of office had not been received by him. The court pointed out that the provision of Art. 31, Para. 2 of the APIA requires that the public body really requests the consent of the third party which means that the request letter really reaches them. Whether the third party will respond and whether the answer would be positive or negative is a consecutive fact which is bound to certain legal effects, but they can occur only if the request has reached the third party. The court decision is final.

By Decision¹⁸ as of April 29, 2015, the ACSC repeals the refusal of the Council of Ministers to provide access to three inspection reports. Access was denied on the grounds that the inspection reports on the government residential complex *Boyana* and the compliance with the working hours of the administration contain the names and the positions of the civil servants and thus constitute personal data under the ambit of the Personal Data Protection Act. According to the justices, the claims that the documents contain personal data and that the APIA is inapplicable are ungrounded since the subject of the request is not the personal data of the officials, their names and positions, but the inspection reports of the Council of Ministers General Inspectorate. The fact that the reports might contain personal data, whose disclosure required the consent of the third parties did not mean that the whole information should be denied. The court decision was appealed by the CoM before the SAC. A court hearing is scheduled for January 2016.

¹⁷Decision No. 225/09.01.2015 of the SAC, Seventh Division, a.c. No. 3292/2014.

¹⁸Decision No. 3007/29.04.2015 of the ACSC, Second Division, 35th Panel, a.c. No. 10101/2014.

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By Decision¹⁹ of 19 May 2015, the Supreme Administrative Court (SAC) upheld the repealing of the refusal by the Regional Association of Municipalities Central Stara Planina to provide information on the persons employed and their job descriptions in the project “Regional Cooperation for the Development of the Craft Sector” (Regio Crafts). The justices held that the obliged subject was indeed required to ask the consent of the third parties and in the event that they do not provide a written consent, it had to disclose that part of the information, access to which is not restricted. The decision is final.

By Decision²⁰ as of 12 November 2015, the Administrative Court – Varna repealed the refusal of the Regional Directorate on Food Safety – Varna (RDFS) to provide information about the stray animals shelter in the city. More specifically, registration certificate of the shelter, its location, internal operational regulations, copies of the contracts with the municipalities served by the shelter, and a copy of the contract with the vet working in it. The Director of the RDFS provided access to the certificate and information about the location, but refused the rest of the information on the grounds that it related to a third party who had explicitly dissented the disclosure. The court found that the challenged partial refusal lacks factual grounds as the Director of the RDFS did not present arguments for seeking the consent of the third party – the organization which manages the shelter, regarding the provision of the internal regulations and the contracts. The court panel pointed out that in view of the explicit dissent, the administrative body was obliged to provide the requested information in a volume and manner that did not disclose the information about the third party. Also, in such a condition, the public body was obliged to make an assessment if there was overriding public interest and to also include arguments in that regard in its decision. The court decision is subject to appeal.

¹⁹ Decision No. 5649/19.05.2015 of the SAC, Fifth Division, a.c. No. 9650/2014.

²⁰ Decision as of 12.11.2015, Administrative Court – Varna, a.c. No. 2356/2015.

Overriding Public Interest and Third Party Interests

By Decision²¹ as of 16 November 2015, the ACSC repealed partial refusal of the mayor of Region *Lozenets* – Sofia Municipality to provide access to the contract, the annexes and the agreement for use of a specific municipal estate property, the order ranking the participants in the tender and documents proving the payment of rent. The mayor of the region provided the requested information, deleting the name of the company in all disclosed documents. The court found that the deleting of the name of the company was ungrounded. There was overriding public interest in the full disclosure of the requested information since it was related to a contract signed by an obliged body as one of the parties. The contract was about the management of municipal property. In such cases, the consent of the third party was not required and the information should be fully disclosed. The court decision is subject to appeal.

By Decision²² as of 23 November 2015, the SAC repealed a refusal of the Minister of Economy to provide copies of the issued permits to a private company for transfer of weapons in the village of Gorni Lom. The refusal was grounded in the fact that the company had explicitly dissented the disclosure of the information. The court found that a lawful refusal can be issued on the ground of the lack of consent of the third party only if evidence was enclosed about the way the third party's interests would be harmed and also after an assessment of the overriding public interest in the disclosure. According to the court panel, the absence of the above stated evidence, justifying the legal basis under Art. 37, Para. 1, item 2 of the APIA, including the presence or not of overriding public interest, serves as grounds for concluding that the refusal was unlawful. The justices explicitly point that out of the presumption for overriding public interest stems the obligation of the public body to convincingly ground its refusal by stating specific interest of the third party that needs to be protected and that substantially exceeds the public interest for transparency and free access to information. The court decision is subject to appeal.

²¹Decision No. 7028/16.11.2015 of the ACSC, Second Division, 24th Panel, a.c. No. 4371/2015.

²²Decision No. 12468/23.11.2015 of the SAC, Fifth Division on a.c. No. 140/2015.

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By Decision²³ of 9 February 2015, the Supreme Administrative Court (SAC) upheld the decision of the Administrative Court - Gabrovo repealing the refusal by the Regional Association of Municipalities Central Stara Planina to provide information on the persons employed in the “Innovative policies to promote entrepreneurship in the craft sector” (Innocrafts). Access was refused on the grounds of personal data protection. The justices held that the obliged subject was indeed required to ask the consent of the third parties and in the event that they do not provide a written consent, it had to disclose that part of the information, access to which is not restricted. The court also noted that, since the requester has claimed that the information should be provided because of the existence of an overriding public interest of disclosure, the association of municipalities should carry out anew an assessment of the existence or the lack of such an interest. The decision is final.

Overriding Public Interest and Accountability in Public Spending

By Decision²⁴ as of 30 April 2015, the Administrative Court – Smolyan repealed the refusal of the National Health Insurance Fund to provide information about the amounts paid to the medical institutions in the Region of Smolyan in 2014. The refusal was grounded in the lack of third party’s consent – the medical institutions which had received funds. The court panel found that there was overriding public interest under the meaning of § 1, item 6 of the Additional Provisions of the APIA as far as the disclosure of the requested information would increase the transparency and the accountability of public funds spending by the obliged body – the National Health Insurance Fund undoubtedly being such under Art. 3 of the APIA. The decision was not appealed and became effective.

By Decision²⁵ as of June 29. 2015, the ACSC repealed the partial refusal of the Chief Secretary of the Supreme Judicial Council (SJC) to provide copies of the rent contracts and all annexes, signed by the SJC for accommodation of its members who do not have houses in the territory of Sofia. Access was refused on the ground that the contracts contained data about third persons and their consent was required for

²³ Decision No. 1360/09.02.2015 of the SAC, Fifth Division on a.c. No. 6737/2014.

²⁴ Decision No. 48/30.04.2015 of the Administrative Court – Smolyan, a.c. No. 28/2015.

²⁵ Decision No. 4516/26.09.2015 of the ACSC, Second Division, 32th Panel on a.c. No. 3764/2015.

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the disclosure. Only two of the landlords had given their consent while the rest had either dissented or did not respond. The court found that the disclosure of the contracts would allow the NGO-requestor to form their own opinion about the conditions set forth by the contracts and if they were favorable or unfavorable to the SJC which paid the rent with public money. The court points out that the challenged refusal contained no evidence of assessment on the presence or absence of overriding public interest. Without proof of any factual or legal grounds ascertaining this legal fact, the public body did not comply with the obligation under Art. 38 of the APIA. The court concluded that there was overriding public interest in the disclosure and that the requested information should be provided with deleted personal data of the third parties. The decision was appealed by the SJC before the SAC. The hearing was scheduled for December 2016.

By Decision²⁶ as of 22 December 2016, the SAC upheld the repeal of the refusal of the Chairperson of the State Agency *National Security* (SANS) to provide access to information about the bonuses he had received in 2013. The grounds for the refusal were that the requested information was not public under the meaning of Art. 2, Para. 1 of the APIA, making the procedure under the APIA inapplicable in the current case. The SAC upheld the conclusions of the first instance court that the current case was about access to official public information and no grounds for restricting the access was at hand. The requested information would allow the requestor to form opinion about the functioning and the accountability of the state body spending public funds in time of financial and economic crisis which is a ground of the overriding public interest under the §,1, item 6 of the Additional Provisions of the APIA. The court decision is final.

Preparatory Documents

By decision²⁷ of 6 April 2015 the ACSC repealed the Supreme Judicial Council (SJC) Chief Secretary's refusal to provide a copy of the crisis PR plan of the institution, adopted in 2013 by the Public Communications committee. The Chief Secretary's refusal was based on the claim that the requested plan is not an official document, is

²⁶ Decision No. 14196/22.12.2015 of the SAC, Fifth Division a.c. No. 957/2015.

²⁷ Decision no. 2321/06.04.2015 of the ACSC, Second Division, 38th panel, on a. c. no. 10332/2014.

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only of recommendatory nature in case of hypothetical situations and has no significance in itself, i.e. it is a preparatory document covered by an exemption under Article 13, par. 2, item 1 of the APIA. The court held that Article 13 could be invoked since it has two cumulative requirements: 1) the information should be related with the preparation of official documents of the body; 2) the information should have no significance in itself (opinions and recommendations prepared by or for the body, reports and consultations). In this case these requirements are not satisfied, since the plan is not a preparation for another final official document of the institution. As the refusal claims the “recommendations”, given in the plan, are not for the adoption of a final official document by the collegial body – the SJC – but about the behavior of its members in certain situations. These “recommendations” are drafted by the body for the body, consequently they have significance in themselves as an internal document regulating the behavior of the collegial body’s members. The court held as unfounded the Chief Secretary’s arguments claiming that the judiciary’s independence would be violated if the crisis PR plan is disclosed. The justices noted that the judiciary’s independence is guaranteed by the implementation of the principles and mechanisms of the separation of powers established in the Constitution and further specified by the Judiciary Act. The disclosure of SJC’s internal rules on its members’ behavior in a potential or a real communication threat cannot (and should not) put the judiciary in a state of dependence on the legislative or executive power. The court decision was appealed by the SJC before the SAC and a court hearing is scheduled for June 2016.

By Decision²⁸ as of 7 July 2015, the SAC upheld the repealing of the refusal by the Sofia Municipality administrative secretary to provide a copy of the internal rules on the organization of administrative services delivery in the municipality. The refusal was based on the argument that the internal rules are of ancillary nature as part of the overall work process of the municipal administration, and therefore are neither official, nor administrative public information and should not be disclosed (grounds under Art. 13, Para. 2, item 1 of the APIA). The SAC upheld the conclusions of the first instance court that on the base of exactly these rules regulating the provision of

²⁸Decision No. 8395/07.07.2015 of the SAC, Fifth Division on a.c. No. 14393/201.

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administrative services and the responsibilities of the municipal officials, the requestor could form their own opinion on the work of the obliged body, which is the purpose of the APIA. The court decision is final.

By a Decision²⁹ as of 27 July 2015, the SAC repealed the decision of the first instance court and the refusal of the Mayor of the Municipality of Samokov to provide access to four market assessments of municipal property subject to municipal deals. The mayor refused to disclose the information on the grounds that it affected the interests of a third party – the independent expert who had made the market assessments, who had expressed written dissent for the disclosure. The Administrative Court – Sofia Region (ACSR) found the refusal lawful, but on different grounds. The court ruled that the market assessments were preparatory documents with no significance of their own (a ground for refusal under Art. 13, Para. 2, item 1 of the APIA). The supreme justices assume that the “market assessments” have significance of their own and their disclosure will allow the requestor to get to know the whole procedure of forming market assessments of municipal properties subject to municipal deals. The court panel points out that the refusal on the grounds stated by the mayor is also ungrounded since the lack of a consent by the expert who had prepared the “market assessments” is not an absolute and sufficient ground for refusing access to the requested information and also depends on the absence of overriding public interest in the disclosure. In the specific case, in view of the essence of the requested information, regardless of the dissent of the third party, the information should be provided in the presence of overriding public interest in the meaning of § 1, item 6 of the Additional Provisions of the APIA since its disclosure aims at the revealing of corruption and misuse of power and would increase the transparency and accountability of the obliged public body. The decision is final.

By Decision³⁰ as of 3 November 2015, the ACSC repealed the refusal of the Bulgarian Food Safety Agency (BFSA) to provide information about the identification and eradicating cases of brucellosis in stray dogs in the stray dogs’ shelters. On the grounds that the requested information constituted preparatory documents with no

²⁹Decision No. 9060/27.07.2015 of the SAC, Fifth Division on a.c. No. 15188/2014.

³⁰Decision No. 6689/03.11.2015 of the ACSC, Second Division, 37th Panel on a.c. No. 6413/2015.

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significance of its own, the Agency refused access to the orders of the Director of the BFSA for sampling; to the documents evidencing that laboratories which tested samples have the necessary accreditation; as well as the type of tests and methodology for testing. The court found that the requested information was not of a preparatory character and was not related to the issuing of a final act by the public body. The court panel emphasized that the information was public and its disclosure would allow the requestor to form their own opinion on the work of the BFSA with regard to sampling and testing samples in the cases of brucellosis in stray dogs. The court decision is subject to appeal.

Electronic Access to Information

By a Decision³¹ as of 25 March 2015, the Administrative Court – Plovdiv repealed a refusal by the District Court – Plovdiv (DCP) to provide information on the amount of requests by investigating authorities for the disclosure of bank secrets, as well as on the amount of authorizations given in 2013 – 2014. The DCP's President had refused claiming that the request was filed through electronic means (internet) and without the electronic signature of the requester. The application was sent in a PDF format which contained the scanned copy of the request with a handwritten signature that was claimed could not be linked with enough certainty to the requester. The Administrative Court – Plovdiv held that neither the DCP's internal rules on access to public information, nor the APIA, gave grounds for a requirement of the use of an electronic signature. The said internal rules provided that the requests received through the DCP's official e-mail address should contain only the data required by Article 25 of the APIA (i.e. three names of the requester, description of the information sought and address for correspondence with the requester). They do not include the e-signature of the requester as mandatory part of the request. The court added that Article 25 of the APIA led to the same conclusion. The decision has been appealed by the DCP's president before the Supreme Administrative Court and a hearing is scheduled for April 2016.

³¹Decision No. 624/25.03.2015 of the Administrative Court – Plovdiv, Second Division, XII Panel on a.c. No. 2311/2014.

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Silen Refusals

By Decision³² as of 14 January 2015, the ACSC repealed the silent refusal of the mayor of the region *Lozenets* – Sofia Municipality to provide information about the ownership over a piece of land in the region that had been assigned as a park (*Dyado Slaveikov's Place*). The decision was not appealed and became effective.

By Decision³³ as of 16 January 2015, the Administrative Court – Smolyan repealed the silent refusal of the Mayor of the Municipality of Borino to provide documents related to the selling of a dam. The court found that pursuant to the Art. 38 of the APIA, the decision of the public body addressed with an access to information request should be explicit and grounded, regardless of the fact that the request is satisfied or not. The court decision was not appealed and became effective.

By Decision³⁴ as of 18 March 2015, the Supreme Administrative Court upheld the repealing of the silent refusal of the Mayor of the Sofia Municipality to provide information about disposal transactions with municipal property for the period 2009 – 2013. The court ruled that pursuant to the APIA there was a legal imperative for the issuing of a decision on the access to information request and for written notification of the requestor about the decision. Incompliance with the requirements of the law is a silent refusal which is inadmissible under the law and on that ground only is subject to repeal.

By Decision³⁵ as of 27 March 2015, the ACSC repealed the silent refusal of the mayor of the Region *Lozenets* – Sofia Municipality to provide access to information related to the placement of object and carrying out repair works in the park *Dyado Slaveykov's Place*. The court found that the only legal procedure of processing access to information request was the public body to issue an explicit decision. The court decision was not appealed and became effective.

³²Decision No. 234/14.01.2015 of the ACSC, Second Division, 26th Panel on a.c. No. 7161/2014.

³³Decision No. 210/16.01.2015 of the AC – Smolyan on a.c. No. 231/2014.

³⁴Decision No. 2976/18.03.2015 of the SAC, Fifth Division on a.c. No. 8493/2014.

³⁵Decision No. 2102/27.03.2015 of the ACSC, Second Division, 36th Panel on a.c. No. 98/2015.

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By Decision³⁶ as of 22 April 2015, the Administrative Court – Pernik repealed the silent refusal of the Mayor of the Municipality of Pernik to provide copies of all contracts signed by the municipality with local, regional and national media for the two-term period of the former mayor. The court decision was not appealed and became effective.

By Decision³⁷ as of 19 June 2015, the Administrative Court Sofia – Region (ACSR) repealed the silent refusal of the Chairperson of the Municipal Council – Bozhurishte to provide copies of all memoes of the municipal council sorted by sessions for the period 2005 – 2015. The court decision was appealed by the Chairperson of the Municipal Council before the SAC. A court hearing is scheduled for October 2016.

By Decision³⁸ as of 26 June 2015, the ACSC repealed a silent refusal by the Mayor of the Sofia Municipality to provide information about repair works of the tram tracks along the Bulgaria Boulevard. The court found that the APIA provides for a legal imperative for written decision on an access to information request, including of a refusal. Not issuing a decisions is a silent refusal which contradicts the norms set forth by the APIA and is subject to repeal on that ground only. The decision was not appealed and became effective.

By Decision³⁹ as of 26 October 2015, the ACSC repealed the silent refusal of the Prosecutor's Office to provide information about the establishment of the *Anticorruption* Department within the institution. The court found that the only legal procedure for processing access to information request is that the obliged body issues an explicit act – a decision for provision or refusal of the requested information, which should be given personally to the requestor against a signature or by registered mail. The decision is subject to appeal.

By Decision⁴⁰ as of 17 December 2015, the ACSC repealed the silent refusal of the Mayor of the Sofia Municipality to provide information about the reconstruction of the underpass of the National Palace of Culture in 2012. The court found that the legal

³⁶Decision No. 161/22.04.2015 as of the AC – Pernik on. a.c. No. 127/2015.

³⁷Decision No.486/19.06.2015 of the ACSR, 6th Panel on a.c. No. 412/2015.

³⁸Decision No.4466/26.06.2015 of the ACSC, Second Division, 27th Panel on a.c. No. 4094/2015.

³⁹Decision No. 6473826.10.2015 of the ACSC, Second Division, 31st Panel on a.c. No. 5280/2015.

⁴⁰Decision No. 8011/17.12.2015 of the ACSC, Second Division, 35th Panel on a.c. No. 4093/2015.

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imperative of issuing a written decision on an access to information request, including for a refusal, was violated.

Requests left without consideration (on the merits) by the administration

By Ruling⁴¹ as of 20 May 2015, the SAC repealed a decision by the Minister of Environment and Waters to leave without consideration a request for access to information related to the national parks management in Bulgaria. More specifically, access was requested to the analysis, commissioned and accepted by the Ministry of Environment and Waters, which concerns the settlement of the relations of the state with owners of sites located and having impact on the environment in national parks. Instead of issuing a decision on the request on the merits, the minister left it without consideration on the grounds that it did not constitute a request for access to information under the meaning of Art. 2 of the APIA or information under Art. 19 of the Environmental Protection Act. The court accepted the complaint as grounded since pursuant to Art. 28, Para. 2 of the APIA, the obliged body addressed with a access to information request has two legal possibilities – to issue a decision granting access or refusing access and notifies the requestor in writing about that. Consequently, in such cases, the law imposes the legal imperative of issuing an explicit decision where the silent refusal to decide, as well as the leaving without consideration, are unacceptable. The Ruling was not appealed and became effective.

By Decision⁴² as of 23 June 2015, the SAC repealed a refusal by the Minister of Environment and Waters to provide a copy of a letter from the MEW to the European Commission stating the date of suspension of operation of a unregulated municipal landfill in the municipality of Yambol, as well as the correspondence between the Ministry and the EC with regard to a petition. The refusal was on the grounds that the information relates to correspondence between the MEW and the EC and that the requestor has the right to file an application to the EC. The court ruled that Regulation (EC) 1049/2001 of the European Parliament and the Council of May 30, 2001 regarding public access to the documents of the European Parliament, the Council and the Commission regulates the provision of access to documents that are

⁴¹Ruling No. 5791/20.05.2015 of the SAC, Fifth Division on a.c. No. 13105/2014.

⁴²Decision No. 7557/23.06.2015 of the SAC, Fifth Division on a.c. No. 8962/2014.

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held by a member state but are announced by a particular institution. When a request is filed to a Member State, the Regulation provides for two possibilities – either the Member State consult with the European institution concerned in order to take a decision, or the Member State refers the request to the institution. By the challenged refusal, the Minister of Environment and Waters, assuming that the request was for documents generated and held by it, but announced by the European Commission – did not comply with neither of the possibilities given by the Regulation, but issued an explicit refusal, notifying the requestor to request the information directly from the European Commission which was a violation of Art. 5 of the Regulation. The decision of the Three-member Panel of the SAC was upheld by the Five-member Panel of the SAC with a Decision⁴³ as of October 27, 2015, which is final.

Evaluation of the activity: The work of the AIP legal team deserves very high appraisal. The legal team, consisting of 4 – three attorneys-at-law and one in-house lawyer on employment contract, provides legal assistance and advice in cases which require research into specific activities, review of large amounts of documentation and orientation what information is needed by the client. The legal team is also committed to preparing opinions on draft legislation and participating in media debates on specific topics related to legislation or other issues concerning institutions' transparency.

Products: The cases submitted for legal assistance and advice are being registered in AIP's Internal information management system and the documents created in the process of legal help provision are uploaded. Simultaneously, detailed records are kept of the cases where representation in court is provided. Each month in the newsletter is published a summary of the developments of court cases in the section "From the courtroom" or an article related to certain specific cases submitted for legal assistance and advice. Every six months a systematization of the litigation practices is being prepared. Regular reviews of case-law are being prepared and disseminated through the international freedom of information advocates network.

⁴³Decision No. 11252/27.10.2015 of the SAC, Five-member Panel – II College on a.c. No. 10544/2015.

Necessary resources:

1. Four lawyers who provide legal assistance, three of them prepare complaints, written defenses and provide representation in court.
2. Systematization and analysis of case-law are specific activities entailing additional effort and skills. They are regularly performed by the legal team.
3. Presentation of developments in the Bulgarian case-law in international networks is also part of the work of the legal team.
4. For carrying out this activity, a subscription for a legal software, internet access, subscriptions to some legal periodicals are needed.

4. Raising awareness campaigns and trainings on the Access to Public Information, the Personal Data Protection Act and the Protection of Classified Information Act

Raising Awareness on the Draft Law on Amendments to the Access to Public Information Act

One of the AIP priorities for 2015 was the raising awareness campaign on the amendments to the access to public information legislation. The campaign was supported under the NGO Programme in Bulgaria under the Financial Mechanism of the European Economic Area 2009 – 2014.

As a result from the efforts of the working group at the Ministry of Transport, Information Technologies and Communications, the public debate on the Draft Law on Amendments to the APIA and the coordination procedure, on MAPril 29, 2015, the APIA Bill was approved by a decision of the Council of Ministers and introduced in the Parliament. The Bill was discussed in four parliamentary committees. The AIP presented its statement at the sessions of the four committees and before the members of the Public Council at the Interaction with Non-Governmental Organizations and Citizens' Complaints Committee. On October 6. 2016, the Bill was adopted at first reading at a plenary session of the National Assembly. AIP experts took part in the work of the leading parliamentary committee in between the two

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hearings of the Bill. On November 26, 2015, the Draft Law on APIA Amendments was adopted at second reading, and promulgated in the State Gazette, issue 97 as of December 11. 2015.

AIP organized and held six workshops with representatives of NGOs from the cities of Sofia (22.10.2015), Montana (4.11.2015), Blagoevgrad (11.11.2015), Varna (26.11.2015), Burgas (27.11.2015) and Plovdiv (10.12.2015). During the workshops, AIP experts presented the amendments to the APIA and the significance of the changes for the exercise of the right of access to information.

Raising Awareness on the Right to Information and Increase of Active Transparency in Bulgaria

In 2015, AIP organized and held the Access to Information Days in the country within the project *Civil Center for Support of Transparency in Public Life* with the financial support of the America for Bulgaria Foundation. Within the Information Days, a team of AIP presented the results of the annual assessment on proactive transparency and the Rating of regional institutions, presented the principles of the right of access to information and developments in the litigation under the access to information legislation, provided on-spot legal help on specific access to information cases. The interest towards the Information Days is big. A total of 170 representatives of the local and regional authorities, journalists, citizens and NGOs took part in the cities of Veliko Tarnovo (13 May 2015), Gabrovo (14 May 2015), Kardzhali (3 June 2015), and Haskovo (4 June 2015).⁴⁴ The biggest interest was towards the Active Transparency Rating of the Institutions in the regions where the Access to Information Days were held.

⁴⁴ <http://aip-bg.org/projects/america%20for%20bulgaria/civil%20center2en.html>

Raising Awareness Campaign on the Right to Information – International Right To Know Day – 28 September

The initiative, launched 14 years ago at an international conference organized by AIP in Sofia, has been recognized and celebrated all over the world.

The format which AIP has chosen to celebrate the International Right to Know Day – a ceremony for presenting awards and anti-awards, has become an example for partners from abroad and has proved its impact for the promotion of the right of access to information in Bulgaria. Every year, the ceremony gathers friends of the Right to Know from the country – journalists, representatives of public bodies, citizens, NGOs.



2015 Right to Know Day Awardees

13th Right to Know Day Awards Ceremony in Bulgaria

AIP presented the annual awards for contribution to the freedom of information on the International Right to Know Day. The ceremony was opened with the song “Breathe,” dedicated to the event which was held on September 28, 2015 in the House of Europe in Sofia.

The [2015 awards](http://www.righttoknowday.net) were given in six categories. The jury had to select the winners out of 36 nominations received through the updated Right to Know Day web site: www.righttoknowday.net. 80 representatives of partner NGOs, journalists, academia; officials from executive bodies and municipalities, and friends of the AIP attended.⁴⁵ Interviews with all awardees were published in AIP FOI Newsletter for October.⁴⁶

On September 2015, the AIP Executive Director Gergana Jouleva presented AIP experience in organizing and holding the Right to Know Day Awards Ceremony at an

⁴⁵ <http://www.righttoknowday.net/en/ceremonies/205264/2015/>

⁴⁶ <http://www.aip-bg.org/publications/Бюлетен/2015/>

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All-Ukrainian Forum “Right to Know. Transparency Of Authorities: Challenges And Achievements”, organized by the Ukrainian Parliament Commissioner for Human Rights Mrs. Valerya Lutkovska in Kiev, Ukraine. ⁴⁷



All-Ukrainian Forum, Kiev, 28 September 2015

Evaluation of the activity: The activities related to the raising awareness on the right to information which AIP performs are an important instrument for encouraging the exercise of the right to information. The other core activities performed by the team and the results achieved in the monitoring, the advocacy, and the legal help serve as the base for the raising awareness campaigns. At the same time, the results achieved by these activities would not be so visible without the campaigns and the raising awareness work done by the AIP team.

With a special impact is The International Right to Know Day. Extremely important for the improvement of the access to information are the civil trainings organized and held by AIP during the years – for the administrations, for journalists, NGOs, and citizens.

Products: A model for the celebration of the Right to Know Day
Developed training programs and materials for different target groups

⁴⁷ <http://www.ombudsman.gov.ua/ua/all-news/pr/29915-gy-valeriya-lutkovska-na-soqodni-derzhavni-organi-sche-ne-gotovi-vidkriva/>

Proven mechanism for running campaigns on access to information issues.

Necessary Resources:

1. AIP team and the coordinators' network in the country for the preparation and holding of the Right to Know Day Awards Ceremony.
2. Financial resource for the ceremony. During the years, AIP has tried to secure funding for the organization and the holding of the ceremony. The Right to Know Day Awards Ceremony has been financially supported by the America for Bulgaria Foundation during the past several years.
3. The training programs are implemented within ongoing projects but are a product that could be developed as a business activity of the AIP.

5. Participation in public debates on access to information and freedom of expression issues

MEDIA COVERAGE OF THE AIP ACTIVITIES IN 2014⁴⁸

In 2015, topics on transparency, accountability, and access to information, including AIP statements on urgent issues, were covered by 269 publications, radio and TV broadcasts in national, regional and local media (including the AIP monthly newsletter).

The AIP activities were covered by seven foreign media in 2015 (*EuroChicago.com*; *FreedomInfo*; *Fringe Spitting*, [Доступ до правды](#)).

The topics which attracted mostly the media interest and resulted in the highest number of publications and interviews from AIP team are:

- The Right to Know Day– 57 publications

⁴⁸ http://www.aip-bg.org/publications/ПДИ_в_медиуме/

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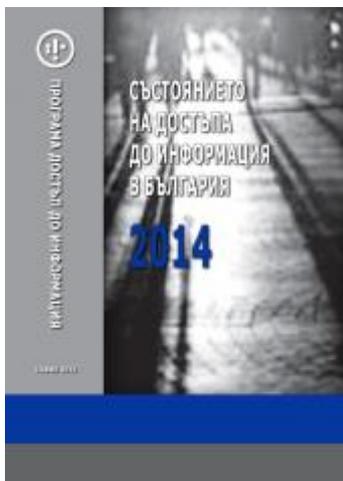
- Active Transparency Rating and results from AIP assessment on institutional web sites– 34 publications
- Publications covering the implementation of the project *Civil Center for Support of Transparency in Public Life* – 18
- Project *Enhancing the Capacity of Nongovernmental Organizations to Seek Public Information* - 15
- Legislation – 40
- Access to Information Litigation – 32

In 2015, 12 issues of the Monthly FOI Newsletter were issued and disseminated electronically to 2400 subscribers. By type of publication, they included:

- Legal Commentaries – 15 articles (including the texts from the columns “Lawyer’s Coment” and “Commentary”)
- News column – 60 news on access to information developments in the world
- The column “From the court room” contained 46 news on court cases, which were going on with the assistance of AIP
- Articles from AIP coordinators in the country – 19 texts published in the columns “From the Coordinators’Network,” “An Adventure with a Request”, Forums.

In 2015, the AIP disseminated via the [NGO Information Portal](#) 15 news, related to freedom of information advocacy, analysis of the legislation and the level of the active transparency, results from the access to information litigation. The total number of unique visits to AIP profile in the Portal is 160 for the period January 1 – December 15, 2015.

Access to Information Programme Publications 2015



Access to Information in Bulgaria 2014 ⁴⁹

In 2015, AIP prepared and published on its web site the annual report “Access to Information in Bulgaria 2014.” The report was translated in English⁵⁰ and disseminated to all partner organizations within the International Freedom of Information Advocates Network.

Access to Information in Bulgaria 2014, Access to Information Programme, 2015, 128 pages.

ISSN 1314-0515 (online)

http://aip-bg.org/annreport_2015/annreport2014.html

ISSN 1314-0523 (online)

http://store.aip-bg.org/publications/ann_rep_eng/2013.pdf

In 2015, the AIP team prepared and published the book “Public Participation and Access to Information (15 Years of the APIA, 37 Stories of NGOs)”⁵¹ and the fifth edition of the handbook “How to Get Access to Information.”⁵²

They were out of print in the beginning of 2016.

In 2015, the educational movie “I Have the Right to Know” was shot and released. It is available on AIP web site and in AIP Youtube channel: <http://www.aip-bg.org/en/video/> и <https://youtu.be/3IE7ySGeOUA>.

Communication Channels of AIP

⁴⁹http://www.aip-bg.org/publications/Годишни_доклади_за_състоянието_на_достъпа/

⁵⁰ <http://www.aip-bg.org/en/publications/annualreports/>

⁵¹ <http://www.aip-bg.org/en/publications/books/>

⁵² <http://www.aip-bg.org/en/publications/handbooks/>

Internet Sites of AIP

Official web site of AIP

www.aip-bg.org

The Internet site of AIP (<http://www.aip-bg.org>) is regularly updated. It is the best developed communication channel for 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 related information is published online. All AIP publications are available on the web page in Bulgarian and English.

The web site is managed by a web based system part of the Internal Information Management System (IMS) of AIP. It 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.

The module structure of the IMS allows for easy visualization of the results from the annual assessment of the Internet sites of public bodies both in Bulgarian http://www.aip-bg.org/surveys/2015_година/103490/, and in English <http://www.aip-bg.org/en/surveys/2015/101758/>. The possibilities for visualizing the results by indicators, generation of different types of ratings, the comparative ratings for the past three years have increased the interest and the traffic to the “Surveys” section on AIP web site: <http://www.aip-bg.org/en/surveys/>.

The traffic statistics (Webalizer) for the 2015 show that the total number of visits to www.aip-bg.org is: 175,550 (average of 14,430 visits per month). The unique visitors for the year are 81,087.

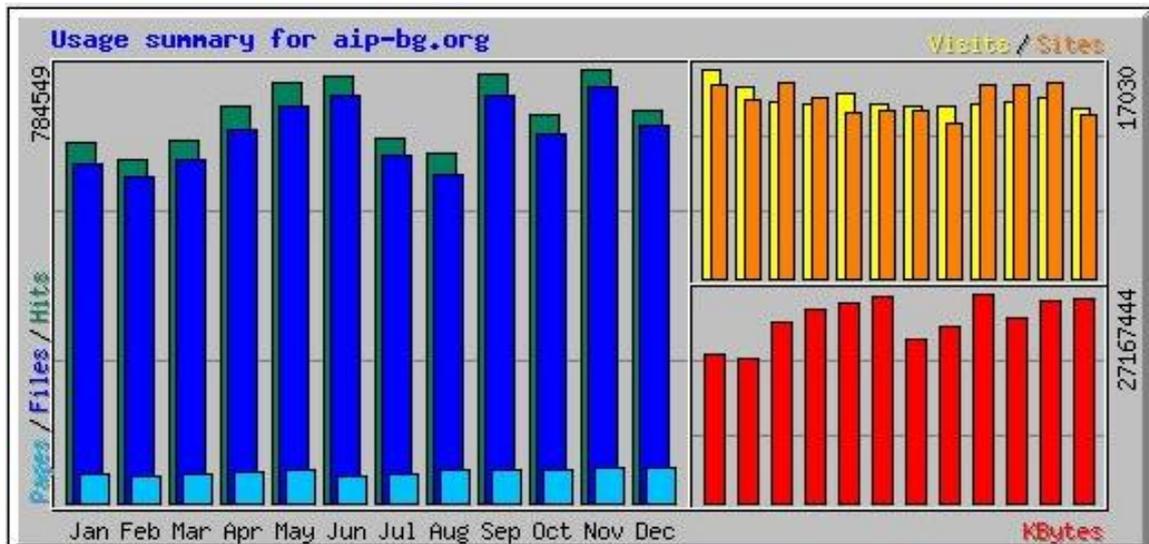
Larger number of hits is registered during months in which AIP ran special campaigns – January – Concept Paper on Amendments to the Access to Public Information Legislation and the results from the first AIP held competition for journalistic investigations; April – presentation of the results from the Audit on

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institutional web sites; May – publishing the results from the AIP supported journalistic investigations; September and October – Right to Know Day Awards campaign for nominations and the awards ceremony.

An increase in the number of hits is registered after each of the six workshops with NGOs within the project “Enhancing the Capacity of Nongovernmental Organizations to Seek Public Information” held by AIP in the period October - December 2015. Again, the highest number of visits is registered in days when blog posts were made.

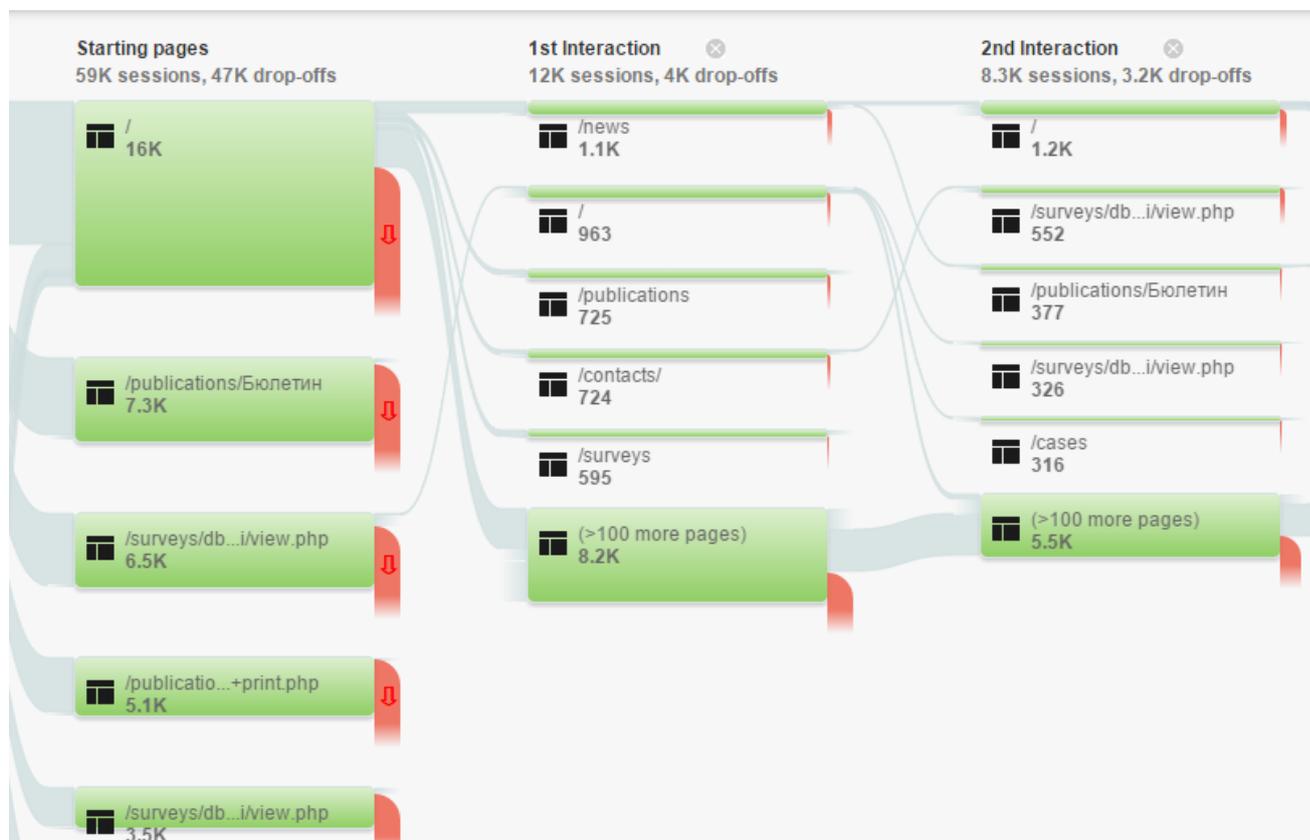
In 2015, the percentage of visits from foreign servers is 11 %. The largest number comes from the USA, UK, the Russian Federation, Germany, the Netherlands, Brazil, Romania, France, Ukraine.



Statistics for www.aip-bg.org (January – December 2015)

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According to Google Analytics data, the number of visits is 59,186. The highest level of visits are to the sections “Surveys,” “News,” “Newsletter,” “Cases.”



Google Analytics www.aip-bg.org (January– December 2015)

Right to Know Day

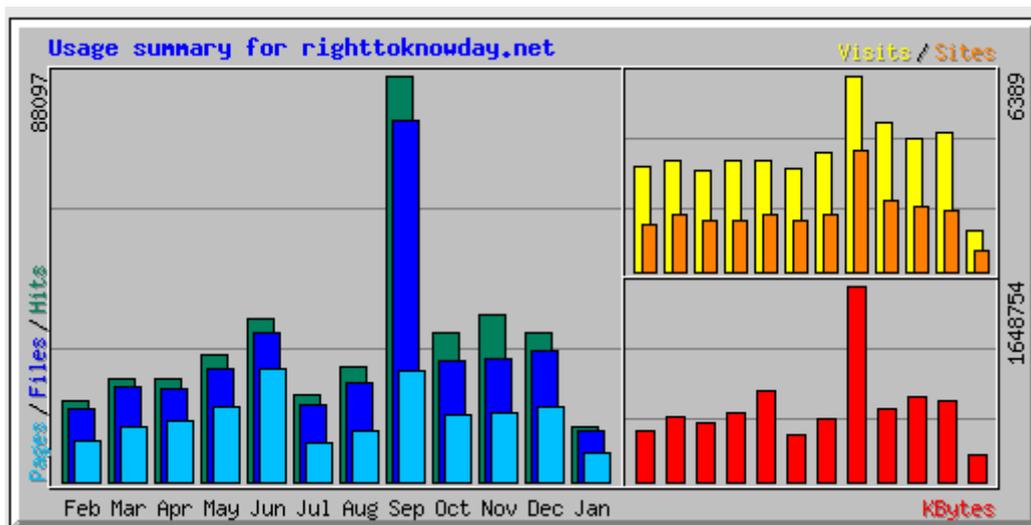
www.rightrightday.net

AIP maintains and updates the web site for the International Right to Know Day – 28 September in English and Bulgarian.

The total number of visits in 2015 is 48,143 (average of 4,010 visits per month, which is almost the same number compared to the previous 2014). The traffic to the web site has increased after the redesign of the site in 2013. The peak in the visits of this web site is September – 6,389.

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The functional update of the web site www.righttoknowday.net was completed in 2013 by the integration of a content management module in the AIP Internal Information Management System. The new design and its dynamic content allows for easy and fast sending of nominations for the Right to Know Day Awards in all categories, and easy review of information from previous Right to Know Day Awards Ceremonies



Statistics for the www.righttoknow.net (January – December 2015)

Access to Information and Journalistic Investigations

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

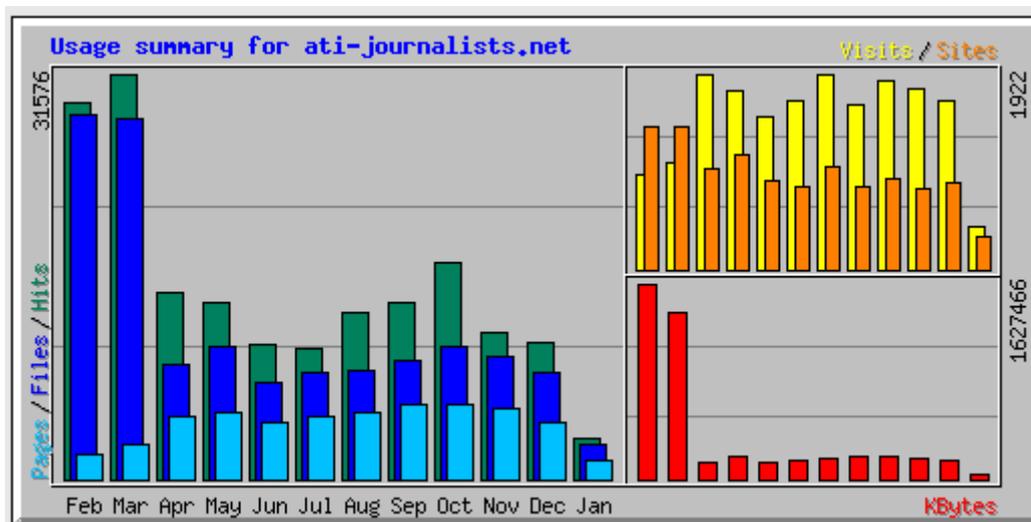
The total number of visits to the web site in 2015 is 18,038. There is a considerable increase compared to the previous year (12,384 in 2014).

Such an increase is a result of the update of the web site which included a new design, new content structure, and the integration of a content management module in the AIP Internal Information Management System. The update was finalized in March 2015. The purpose is to make the update of the content more timely and efficient and the navigation among specific journalistic cases when APIA is used easier. A new section "Investigations" has been added to the content which includes the investigations of the nine journalists that were supported with a financial grant

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and legal help by AIP within the first Investigative Journalism Competition organized by AIP within the project “Civil Center in Support of Transparency in Public Life.”

<http://www.ati-journalists.net/bg/investigations/Razsledvania/205492/2015/>.



Statistics of the <http://www.ati-journalists.net/> (February 2015– January 2016)

Access Point blog

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

The blog Access Point is an additional channel for communication of news and comments on important access to information issues. In 2015, AIP posted 10 items followed by 7 comments by users. Some of the posts were reprinted by popular media and resulted in a debate on issues of public interest. The posts are automatically sent to a subscription list. At the moment, it contains 400 subscribers, predominantly journalists, NGOs and citizens.

Web Portal Public Registers

www.publicregisters.info

The Portal *Public Registers* launched by AIP at the end of 2011, has gained even more popularity at the increase of open data users with the purpose to create added-value products for the public benefit. The portal contains the results from a survey on

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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. 82,560 visits were registered in 2015, out of which 69,353 are unique visits (with 15,285 more visits than in 2014. The visited pages are 133,224. The statistics of this web site is given by Google Analytics only.

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. 820 people like it. Visits per month vary from 50 to 1,200 when new posts are made.

Youtube Channel

AIP maintains its Youtube Channel

<https://www.youtube.com/channel/UCDoIAzPqxlqkgAKKVf5jBLA>.

11 videos are uploaded already - the documentary “Media and Access to Information – Five Investigative Reporter Stories”, short videos containing legal comment and advice on specific access to information cases of investigative journalists, the 2014 Right to Know Day Awards Ceremony. The purpose of the YouTube channel is to increase the popularity of AIP products and services and the extend the scope of the freedom of information campaign.

Evaluation of the Activity: The communication of the results of AIP work and the participation in media debates on issues related to access to information are also core activities of AIP. The preparation of publications, the articles on the litigation, the participation in the public debate involves almost the whole of the AIP team. Three members of the team are monitoring and systematizing the publications in national and local media, and also translate the materials. This smaller team prepares press releases, provides coverage of events, held by AIP. The activity encompasses a big

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range of tasks and requires the involvement and coordination of efforts of the whole team.

Products: Blog, Newsletter, three web sites, publications in Bulgarian and English

Necessary Resources

1. At least three full-time engaged members of the team are necessary for the coordination of the activity. The maintaining of the web sites, preparation of the publications, the translation of materials, the monitoring of the networks of which AIP is a member and dissemination of information about the ongoing developments in the access to information areas requires the involvement of the whole team of the AIP.
2. Financial securing for the issuing of the AIP Monthly FOI Newsletter.
3. Funds for the preparation and the issuing of the annual report “Access to Information in Bulgaria” in Bulgarian and English.

6. Cooperation with partner organizations on a national, regional, and global level

In 2015, members of AIP team took part in 81 events.

AIP experts have participated in 11 international forums in Albania, Bosnia and Herzegovina, UK, Germany, Spain, Mexico, Serbia, Montenegro and Ukraine.

In 2015, members of AIP team delivered lectures and presentations before a total of 687 participants in different types of forums.

The AIP team was a host of 17 events in 2015. Some of them were:

- Annual meeting with AIP coordinators in the country – 21 participants;
- “Access to Information” Days in the cities of Veliko Tarnovo, Gabrovo, Kardzhali, Haskovo – 170 participants;
- Presentation of the results of the Audit on institutional web sites and the Active Transparency Rating – pressconference;

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- Pressconference on the 15th Anniversary of the adoption of the Access to Public Information Act (APIA);
- Workshop with the AIP coordinators in the city of Veliko Tarnovo – 27 participants;
- The Right to Know Day Awards Ceremony on 28 September – 80 participants;
- “What is New in the APIA?” Workshops in six cities – Sofia, Montana, Blagoevgrad, Varna, Burgas, and Plovdiv – a total of 144 participants – representatives of NGOs.

The AIP Executive Director Gergana Jouleva was invited to deliver a presentation at a conference organized by the Ukrainian Parliament Commissioner for Human Rights in Kiev, Ukraine on the occasion of 28 September – the International Right to Know Day.

AIP Executive Director Gergana Jouleva participated in the 2015 OGP Global Summit held in Mexico City on 26-29 2015.

Stephan Anguelov is the Independent Research Mechanism expert for Bulgaria within the Open Government Partnership and took part in the 2015 OGP Global Summit held in Mexico City on 26-29 2015.

The Access to Information Days held in the regional cities are part of the implementation of the project “Civil Center in Support of Transparency in Public Life” financed with a grant of the America for Bulgaria Foundation.

The workshops on the APIA amendments were organized and held within the project “Enhancing the Capacity of NGOs to Seek Public Information” supported under the NGO Programme in Bulgaria under the Financial Mechanism of the European Economic Area 2009 – 2014.

AIP Involvement in the International Freedom of Information Advocates Network (FOIANet)

The AIP was an initiator and one of the founders of the International Freedom of Information Advocates Network - FOIAdvocates.⁵³

AIP Executive Director Gergana Jouleva has been a member of the Steering Committee of the FOIANet since the establishment of the network in 2002 till 2014. In 2014, the first live SC meeting was held in Madrid where the coordinator of the FOIANet is located. The topics discussed were related to the strategies for the development of the network, the procedure for approval of organizations for membership, and proposals related to the Internet site of the network and the coverage of the International Right to Know Day.

Elections for a new FOIANet SC were held in October 2014 and the Head of AIP Legal Team Alexander Kashumov was elected a member of the Steering Committee. The first meeting of the newly elected SC was held in February 2015 in Madrid, Spain.

In 2015, AIP has taken active part in the discussions within the FOIANet. AIP is one of its founders and its active member. The discussion list of the network contains 400 members (organizations and individuals) from around the world. Besides for exchange of news and coverage of different campaigns, the network provides a valuable possibility for discussions and consultations among its members by e-mail communication.

The AIP Coordinators' Network in the country

On February 20, 2015 in Sofia, Access to Information Programme (AIP) held the annual meeting with the journalists of its country-wide coordinators' network. The AIP presented key achievements from AIP advocacy activities in 2014: AIP participation

⁵³ <http://foiadvocates.net/>

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in the working group at the Ministry of Transport, Information Technologies and Communications with the mandate to amend the Access to Public Information Act with the purpose of introducing the EU Directive on the Re-use of Public Sector Information in the national legislation; statistics and characteristics of the cases referred to AIP for legal help and consultation during 2014; an overview of ATI litigation; the AIP communications channels, national and international initiatives with AIP participation.

The journalists from the coordinator's network outlined the current situation of the access to information in the country. They presented statistics of the requests filed to the municipalities and the regional structures of the executive power bodies; the attitude of the administration towards the requestors; characteristics of the issued refusals, access to information litigation of citizens, journalists and NGOs.

The detailed reports of the journalists showed the tendency of heads of regional authorities or municipalities to address AIP coordinators in the respective regions for assistance in order to improve their performance in the Active Transparency Rating.

The coordinators emphasized that the state of the access to information on a local level depends not so much on the administrative capacity, but on the knowledge and involvement of particular public officials. The communication and working with institutions with PRs is easier. Regular trainings on the APIA are necessary for municipal officials and officials of the regional structures of executive bodies.

The coordinators also emphasized the necessity for specialized trainings for local journalists on how to use the APIA. Statistics of the small number of requests filed in 2014 on a local level by journalists also proved that statement. The coordinators shared that citizens still do not know about their right to information in the small municipalities.

It is important that the success APIA stories reach the local communities. They motivate and encourage further exercise of the access to information right, said Lyubomir Jordanov from Montana.

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Stela Kovacheva from Razgrad presented cases in which the requestor had sought information in order to protect their other legal interests in the court.

Although the common opinion was that the access to information has been improving, that the local institutions have become more open and accountable, there are still places where “access is impossible.” There are still places where citizens are required to ask their questions in writing only. Some regional structures of public bodies continued to refer the APIA requests to the central bodies (ministries and agencies) in Sofia. In Smolyan, a delay of the responses on APIA requests referred from the country were observed. There is selective permeability of PR messages that reach some media and others – not.

AIP presented the Coordinator of the Year award to Tsvetan Todorov, AIP coordinator in Lovech. He is acknowledged with the award for a second time for his persistent and effective advocacy work in the region by using the Access to Public Information Act in his journalistic work, going to court to challenge information refusals, assisting requestors, and reporting on access to information developments in the media.

In the period May – June 2015, AIP coordinators Zdravka Maslyankova, Emilia Dimitrova, Ivanka Lambeva and Bozhidar Sabev took up the organization of the Access to Information Days under the project “Civil Center for Support of Transparency in Public Life.” They provided the attendance of 170 representatives of regional and local administration, NGOs, citizens and journalists in the events held in Veliko Tarnovo, Gabrovo, Kardzhali and Haskovo. The local media journalists and citizens received legal help and practical advice in seeking information from the public bodies within the Information Days.

The AIP held a workshop with the journalists from its coordinators’ network on 11-13 September 2015 in the city of Veliko Tarnovo. The workshop was held within the framework of the project Enhancing the Capacity of Nongovernmental Organizations to Seek Public Information supported by a grant under the NGO Programme in Bulgaria under the Financial Mechanism of the European Economic Area 2009 - 2014 (<http://www.ngogrants.bg>).

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The coordinators in 19 regional cities presented statistics of the requests filed to the municipalities and the regional structures of the executive power bodies; the attitude of the administration towards the requestors; characteristics of the issued refusals, access to information litigation of citizens, journalists and NGOs. They outlined tendencies in the implementation of the obligations for access to information provision and the exercise of the right to information by citizens, NGOs and journalists.

Gergana Jouleva and Alexander Kashumov, head of AIP legal team, presented the amendments to the Access to Public Information Act (APIA).

Stephan Anguelov showed the opportunities that the Open Data Portal opens for searching and using the information it contains. Kiril Terziiski presented access to information court cases supported by AIP and court decisions delivered during the first half of 2015. Darina Palova and Alexander Kashumov gave practical advices for using the APIA and public registers in the work of the journalists.

During the period November – December 2015, the coordinators Lyubomir Jordanov, Vladimir Simeonov, Krastina Marinova, Silvia Shatarova and Galina Konstantinova organized the workshops with NGO representatives in the cities of Montana, Blagoevgrad, Varna, Burgas and Plovdiv. 109 participants were acquainted with the amendments to the APIA within the project [Enhancing the Capacity of Nongovernmental Organizations to Seek Public Information.](#)

In 2015, the journalists from AIP coordinators' network in the country published and broadcast about all AIP initiatives, campaigns, and events. They published about the results from the annual meeting of the coordinators and the AIP team in Sofia in February 2015, the updated 2015 Active Transparency Rating of the Institutions, the AIP annual report on the access to information, results from the "Access to Information" Days and the workshops with the NGOs in the country, the nominations and the awardees of the Right to Know Day Awards, the outcomes of the workshop with the coordinators held in Veliko Tarnovo.

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There were publication about the transparency of the administration, the information darkness imposed by the Prosecutor's Office, violations of the APIA, how the law has an educational effect on the administration.

The coordinator in Turnovo Zdravka Maslyankova presented a report entitled "Access to public information - A tool of the Public Opinion" in May in the conference "Public opinion - media strategies and challenges" organized by the University "St. St. Cyril and Methodius" and "Friedrich Ebert" Foundation.

In 2015, the coordinators wrote and initiated 79 publications.

19 of them were published in AIP Monthly FOI Newsletter – the most active was Zdravka Maslyankova with 6 publications. The rest 60 publications were in local media where most active were Tsvetan Todorov– 11, and Zdravka Maslyankova– 6.

Coordinators in the regions of Pazardzhik, Vidin and Shumen were changed. The new colleagues Todor Grozdev, TSvetomir Tsvetanov and Nevena Nikolova were presented and took part in the workshop held in Veliko Tarnovo in September.

Evaluation of the Activity: Cooperation on a national and international level has always been an important part of AIP work. The establishment of the coordinators' network in the country, the initiation of the FOIANet are achievements AIP has been proud of. AIP takes part in different coalitions in pursuit of its mission to assist the increase of government accountability, transparency and the conditions for the exercise of the right to information.

Products: Network of coordinators in the country; International Freedom of Information Advocates Network; membership in different European organizations – advocates for enhanced transparency; dissemination of information about the access to information in Bulgaria; participation in European and international advocacy campaigns; increase of the recognition of the organization and sharing of experience by participation in different forums, conferences, trainings, and seminars.

Necessary Resources

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1. A coordinator of the network in the country who coordinates the work of the journalists in the country and monitors the media coverage;
2. Two members of the AIP team to monitor the discussions in the networks and share AIP experience.
3. Funds for holding at least one meeting of the AIP team and the coordinators in the country to outline persistent problems and discuss strategies for their overcoming;
4. Funds for travel abroad when the participation in different types of forums is not covered by the organizers.

7. Institutional achievements and development

The AIP Team

The team which has completed this huge amount of work and achieved these significant results is:

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

Fany Davidova, lawyer, who left the organization in March 2015

Stephan Angelov, lawyer

Diana Bancheva, communication coordinator

Nikolay Ninov, coordinator of the countrywide network of journalists

Ralitza Katzarska, coordinator

Since July 2015, AIP has signed a contract with Advice Plus company for accounting service. The contract with BM Consulting Financial Services was terminated.

Coordination and control

Every Monday, the AIP 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 Register of Public-Benefit NGOs under the Ministry of Justice.

AIP is managed by the Board and the Executive Director. Every year the Board is setting forth the priorities of the AIP foundation and approves of the annual reports and the budget of the organization.

Board

Dimitar Totev – Chairperson

Gergana Jouleva, PhD– Executive Director

Luba Rizova

Mariana Milosheva-Krushe

Pavlina Petrova

Petko Georgiev

Yordanka Gancheva

Neven Dilkov

In 2015, the Board of AIP held two regular sessions.

On April 27, 2015, 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 AIP Bylaws, called by the AIP Executive Director Gergana Jouleva. The Board approved the Annual report of AIP for 2014 presented by the Executive Director Gergana Jouleva; approved the budget and the main activities for 2015.

On December 22, 2015, 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 heard the report on the results achieved during 2015 presented by the Executive Director, discussed main directions in the work of AIP for 2016, reviewed and approved the draft-budget for 2016. A decision was taken that a dedicated session would be held with regard to the 20th anniversary of the establishment of the AIP. The Head of AIP legal team Alexander Kashumov was accepted as a member of the Board at that session.

AIP has continued to maintain and develop its country network of coordinators. In 2015, two working meeting were held with the journalists from the network.⁵⁴

Development of the Internal Information Management System

Since the beginning of 2010, AIP has an Internal Information Management System (IMS) which was developed by Svetlozar Online Company. The IMS contains the following modules: 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, comments and statement on specific issues on its blog, etc.

In 2015, the new module Audit on Institutional Web sites 2015 was incorporated in the IMS integrating updates related to the new obligations for proactive publication of information under the Public Finances Act. The statistical reports were upgraded. The module was prepared for launch in English. Besides the [2015 Active Transparency Rating](#), the results are visualized in [the Map of Financial and Budget Transparency of Municipalities](#).

⁵⁴ See pp. 58 – 62 of the report for more information.

Projects

During 2015, AIP has implemented the following projects:



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

Period: May 1, 2012 – April 30, 2015

Donor of the Project: Open Society Institute

Project Goals:

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. Supporting citizens, journalists and NGOs who seek public information, especially in cases of high public interest;
2. Helping people get access to justice in ATI cases;
3. Addressing the courts in cases when information of high public interest is refused;
4. Addressing the courts in cases when information is refused by public bodies operating by public funds (state and municipalities money and EU funds);
5. Systematization ATI litigation practices;
6. Sharing results from ATI litigation with lawyers;
7. Using the results of legal assistance in public campaign for more accountable government;
8. Spreading out the positive results of the AIP experience in national and global networks.

Project Activities:

1. 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;
2. Filing applications and submissions to the administrative courts;
3. Representing ATI cases in courts;
4. Systematizing of the litigation practices;

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5. Permanent media campaign on ATI cases and practices through publications in FOI Newsletter, central and local media, AIP blog, FOIANetwork mailing list, on the website;
6. Presenting results from litigation on a national conference before lawyers and other interested parties;
7. Cooperation with partner organizations.



AMERICA FOR BULGARIA
FOUNDATION

Фондация Америка за България

**Civil Center for Support of Transparency in
Public Life**

Period: June 10, 2013 – June 10, 2014

Donor of the Project: America for Bulgaria

Foundation

Project Goals:

1. To advocate for better access to information legislation, especially with regard to the proactive disclosure of public information on the base of systematic monitoring of legislation and implementation practices;
2. To advocate for improvement of proactive disclosure of public information and implementation of active transparency standards, especially related to budget and financial openness, public procurement, distribution of EU funds, city development plans;
3. To support seekers of access to government held information, especially in cases of overriding public interest;
4. To raise public awareness and disseminate knowledge on the right to information;
5. To support investigative journalism for enhancing government accountability and transparency;

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6. To cooperate and network for increased government accountability and transparency at all levels;
7. To strengthen AIP position and develop its capacity as a Civil Center for Support of Transparency.

Activities:

1. Advocate for better FOI legislation on the base of permanent monitoring on ATI related and secondary legislation, submit comments and recommendations and engage in public debate
2. Monitoring of access to information implementation practices, Annual audit on 535 institutional web sites, launch of the Active Transparency Rating and formulation of recommendations in the annual report Access to Information in Bulgaria
3. Provision of legal help, including representation in court, to access to information seekers in cases of overriding public interest
4. Raising awareness on the right of access to information, encouraging active exercise and public debate on problematic transparency and accountability issues
5. Support investigative journalism by awarding investigations on government transparency and accountability
6. Cooperation with national and international partners and networks to exchange experience and advocate for enhanced government transparency and accountability.

Advocacy Campaign for Amendments to the Access to Information Legislation



Period: January 28, 2014 – January 28, 2015

Supported under the NGO Programme in Bulgaria under the Financial Mechanism of the European

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Economic Area 2009 – 2014

Main Project Objective: Increased involvement of NGOs in policy and decision-making processes with local, regional and national governments.

Specific objectives:

- Increasing the contribution of non-governmental organizations to the formulation of policies and to the decision-making processes on local, regional and national level;
- Increasing the activity of non-governmental organizations in connection with the accountancy and transparency of the public institutions;
- Improvement of the dialogue between the non-governmental organizations and the local, regional and national authorities

Activities:

1. Survey, systematization of the results from the permanent monitoring and preparation and publication of the annual report on the access to information in Bulgaria
2. Preparation and holding of a meeting with AIP coordinators in the country for the presentation of the objective of the campaign
3. Organization and holding of 5 public discussions with interested groups and launch of an online public consultation
4. Systematization of the proposals and statements from the public consultation in a Concept for Access to Public Information Act amendments
5. Organization and holding of the conference “Are APIA amendments necessary and if yes – what”

Enhancing the Capacity of Nongovernmental Organizations to Seek Public Information

Period: May 2015 – February 2016



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Supported under the NGO Programme in Bulgaria under the Financial Mechanism of the European Economic Area 2009 – 2014

Main objective of the project: Capacity building for NGOs for advocacy and monitoring

Specific goals:

- Establishment and use of mechanisms for sharing knowledge on NGO's participation in the policy making at a local, national and European level.
- Building and using capacity for monitoring, advocacy, and impact on public policy at a local, national and European level;
- Trainings on advocacy and watchdogging for organizations located in isolated geographical regions.

Target groups: NGOs and civil groups; 27 journalists – AIP coordinators in the regional cities of Bulgaria.

Main activities:

1. Organization and holding of trainings for NGOs and active civil groups in 6 cities
2. Provision of legal help for effective exercise of the right to information and the use of the Access to Public Information Act procedures by NGOs
3. Organization and holding of a National conference "The Access to Information – a Tool for Achieving our Goals" in Sofia
4. Preparation of access to information training and raising awareness materials
5. Capacity building of the AIP coordinators' network in the country
6. Promotion and media coverage of the project activities

Expected results:

1. 6 trainings held for representatives of NGOs and civil society groups in six cities in the country
2. 100 representatives of NGOs and civil society groups aware of access to information international standards, the most recent amendments to the

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Access to Public Information Act (APIA) and trained to use the APIA procedures

3. Legal help provided, including representation in court, in 150 cases of NGOs and active citizens
4. Enhanced capacity of AIP legal experts
5. Access to information cases of NGOs popularized in 8 monthly FOI newsletters disseminated electronically to 2,400.
6. A National conference “The Access to Information – a Tool for Achieving our Goals” organized and held in Sofia
7. Updated, printed and online available handbook “How to Get Access to Information?”
8. Educational movie “How to Get Access to Information?”
9. A training for AIP coordinators – 27 journalists in the regional cities of the country organized and held
10. Popularizing the activities and results of the project

Since July 2015, AIP has been partnering with the Center for Liberal Strategy under the project “Rise and Fall of the Corporate Commercial Bank,” supported with a grant by the America for Bulgaria Foundation.

10.02.2016

Gergana Jouleva

Sofia

Executive Director of AIP

The AIP report for 2015 was approved at a regular session of the Board of AIP held on March 25, 2016.