

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2008

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 a more active supply of information.

In 2008, AIP has worked in several directions to realize those long-term objectives:

1. Monitoring the regulations of the right of access to public information and its restrictions, as well as the relevant legislation.
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. Education and trainings on the Access to Public Information Act (APIA), the Personal Data Protection Act (PDPA), and the Protection of Classified Information Act (PCIA).
5. Participation in the public debate and raising awareness on access to information and freedom of expression issues.
6. Cooperation on national, regional and global level.

The main achievements in the above-mentioned directions are:

1. Monitoring the access to information legislation, its limitations and other related legislation

AIP has continued its advocacy work by:

- comments on the suggested amendments in the legislation;
- recommendations on changes in the texts of specific acts;
- comments on the existing legislation and recommendations for amendments.

On March 14, 2008, Access to Information Programme organized a National Round Table where the results from discussions on FOI with NGO representatives held in 2007 and 2008 in six Bulgarian regions were summarized and presented. Participants at the National Round Table discussed and adopted a Memorandum with specific recommendations for the improvement of the access to information situation in Bulgaria. The recommendations provided by the international experts Mr. Tony Bunyan, *Statewatch* Executive Director, and Ms. Helen Darbishire, *Access Info Europe* Executive Director were included in the Memorandum. Bulgarian and English version of the Memorandum could be found here: <http://www.aip-bg.org/projects/phare/memorandum.html>).

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

The Memorandum is a part of the AIP Annual Report *Access to Public Information Situation in Bulgaria 2007* (http://www.aip-bg.org/pdf/report2007_en.pdf) which has been disseminated to:

- participants in the press conference presenting the AIP Annual Report *Access to Information in Bulgaria 2007* held in the Press Club of the Bulgarian News Agency on May 9, 2008
- Chairpersons of the Parliamentary Groups in the National Assembly of the Republic of Bulgaria
- Press Center and PR Department of the National Assembly of the Republic of Bulgaria
- Combating Corruption Committee to the National Assembly of the Republic of Bulgaria
- AIP coordinators who disseminated more than 600 copies of the AIP Annual Report 2007 in the country regions of Bulgaria.

In March 2008, the Combating Corruption Committee initiated a procedure for developing a draft for amendments in Access to Public Information Act related to the better regulation of the right of access to information in term of the trade secret exemption. Gergana Jouleva and Alexander Kashumov participated in the discussions on the draft. A working group on the draft law provision was established. Alexander Kashumov took part in it. Draft amenments were first introduced by Martin Dimitrov and a group of MPs from the opposition Union of Democratic Forces on May 28. Proposed amendments were based on recommendations for necessary amendments to the Access to Public Information Act, included in the Meomorandum adopted at the National Round Table and formulated by AIP in the Annual Reports for 2007 and 2008. The second draft of the Combating Corruption Committee was introduced on July 4, 2008. On March 20 and on June 10, AIP submitted legal statements and comments on the two drafts. Parliamentary Commissions heard concecutively the two draft laws. AIP representatives took part in all sessions of the parliamentary committees as follows:

- June 5, 2008 – European Affairs Committee meeting
- June 11, 2008 – State Administration Affairs Committee meeting
- June 12, 2008 – Combating Corruption Committee meeting
- June 18, 2008 - State Administration Affairs Committee meeting
- July 17, 2008 – European Affairs Committee meeting

On July 23, 2008, the leading Civil Society and Media Committee approved the draft amendments to the Access to Public Information Act. On October 3, the Civil Society and Media Committee adopted both of them at first hearing.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

According to the internal rules for the activities of the National Assembly of Bulgaria, the two texts were combined.

- November 6, 2008 – Civil Society and Media Committee.

On December 5, 2008 key amendments to the Access to Public Information Act were promulgated in the *State Gazette*.

In 2008, also AIP continued to take an active part in the campaign for adopting European Convention on Access to Official Documents of the Council of Europe, http://www.aip-bg.org/documents/coe_convention_aod.htm.

On September 24, 2008, AIP Executive Director referred a letter to the members of the Bulgarian Delegation in the Parliamentary Assembly of Council of Europe. The letter appealed to the Bulgarian Delegation to support the statement of Mr. Klaas de Vries, member of the Committee on Legal Affairs and Human Rights, which will be presented during the regular session of the Parliamentary Assembly of Council of Europe (September 29 – October 3, 2008) when a debate and voting on the draft of European Convention on Access to Official Documents of the Council of Europe has been planned.

Council of Europe Convention on Official Documents was adopted by the Committee of Ministers on 27 November 2008 and it is the first international convention which guarantees the right to access to information.

Very important campaign led by AIP in 2008 concerns the Bulgarian Regulation 40 transporting the Data Retention Directive (2006/24/EU) issued by the State Agency on Information Technologies and Communication and Ministry of Interior. On March 19, 2008, AIP representatives participated in a discussion on the Regulation 40 organized by the Ombudsman of the Republic of Bulgaria. AIP challenged the Regulation submitting a complaint to the Supreme Administrative Court on March 19, 2008. More information about the campaign could be found here: http://www.aip-bg.org/documents/data_retention_campaign.htm.

More information about the proceedings started by AIP against the Regulation 40 could be found in the text of the Report below.

In 2008, members of AIP team took part in the following activities:

- In May 2008, *Press Center and Public Relations* Department of the National Assembly of the Republic of Bulgaria refer to AIP a request for assistance in the development of Internal Rules of the National Assembly of the Republic of Bulgaria for provision of public information under the Access to Public Information Act. In June 16, 2008, Darina Palova and Fani Davidova presented before the team of the *Press Center and Public Relations* Department a Project for the National Assembly of the Republic of Bulgaria Regulations for access to public information provision under the Access to Public Information Act. On August 1, 2008, the Director of the *Press Center and Public Relations* Department send a letter of grateful acknowledgement for the AIP assistance in the preparation of the project for Internal Rules for provision of access to information http://www.aip-bg.org/pdf/presscenter_parliament.pdf

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

- On September 30, 2009, the Chairman of the Standing Committee for Finances and Budget of the Sofia Municipal Council refer to AIP a request to receive our statement on a Report and Project for initiating a Public Register through the Sofia Municipal Council web site. The register would contain data on the fulfillment of public procurements from approved contractors held by the Sofia Municipality. On October 10, 2008, AIP filed a statement on the suggested Report and Project for the Public Register.

All comments, recommendations and statements of the AIP are being the part of the public debate via media (See: Annex 1 – *Publications of the Access to Information Programme or the cooperation based on it – 2008, printed publications, Internet* and Annex 2 – *Broadcast information revealed by AIP in 2008 in electronic media – radio and TV*).

2. Supervision of the practice regarding freedom of information

In 2008, the supervision of the practices of information provision were carried out by means of:

- Systematization of the monthly reports of the AIP coordinators in regards to the practices of APIA implementation in certain regions of the Republic of Bulgaria. AIP coordinators are collecting the cases when the information was refused to be provided, and direct the cases to AIP for the comments and legal aid.
- Systematization of the cases when the legal aid was provided by the legal team of AIP. Amount of such cases in 2008 is **192**, out of which in **244** cases legal consultation was provided. Statistic information contained in the data base is a useful indicator of APIA implementation and problems in the field of freedom of information. (See: Annex 3 – *Information contained in the data base of AIP*).
- Another important source of information on APIA implementation in the governmental institutions is the summery on the National Round Table about the experience and problems faced by NGOs in execution of the right to access to information, organized by AIP.
- From February 18 till March 2, 2008, AIP conducted a special assessment survey of the Internet pages of the state institutions in Bulgaria, from the perspective of the Access to Public Information Act and the standards in the field of freedom of information.

The outcomes of the assessment of institutional Internet pages from the perspective of APIA and minimal standards in the field of freedom of information were analyzed and published in the annual report of AIP *Access to information in Bulgaria 2007* (http://www.aip-bg.org/pdf/report2008_en_db.pdf). This is the traditional report which (overall eight reports have been published since adoption of Access to Public Information Act in 2000) presents in the systematic view results of practices supervision in the last year, law amendments are also analyzed in the paper as well as the court practices on Access to Public Information Act implementation. The report also contains recommendations to the bodies of legislative and executive authorities in Bulgaria directed to improve the practices ensuring access to public information.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

Representative public opinion poll on public attitudes regarding the right of access to information

In September 2008, the public opinion poll was carried out by *Market LINKS* Research&Consulting at the demand of AIP and within the framework of the project **Support to Access to Information Programme as a Freedom of Information Civic Resource Center** financed by the *Trust for Civil Society in Central and East Europe*. The summary of the results shows that the percentage of people aware of the right of access to public information is 38% in comparison with 15,5% awareness in 2006. The percentage of people aware of the access to information legislation is 31% in comparison with 10,1% in 2006.

Only 17% believe that the right of access to public information is guaranteed. Almost 61% believe that the right of access to public information is not respected in Bulgaria. Seven percentage of all questioned citizens have exercised their right to access to public information in comparison with 6% in 2006 and about 63% state that they have not exercised it yet, but are likely to do it. Almost 34% are aware of the existence of the Access to Public Information Programme Foundation.

Summary of the results and the main recommendations could be found here:
http://www.aip-bg.org/pdf/ati_opinion_poll_eng.pdf; http://www.aip-bg.org/pdf/main%20results_ati_opinion%20poll.pdf

3. Legal aid in the cases connected with the requested information and in the cases when the information was refused to be provided, including the representation in the court.

3.1. Legal aid

Provision of the legal aid remains one of the basic priority activities of AIP. In some cases Access to Information Programme provides legal aid on the initial stage of information request, i.e. legal team of the AIP is consulting/preparing request for access to information. In other category of cases, it provides legal assistance after the refusal to provide the information was issued (See: Annex 3 – *Information contained in the data base of AIP– cases of information provision refusal*).

Significant part of the legal aid provided by the legal team of AIP was focused on helping in compiling the applications to the court and legal representation of the applicants which asked for the assistance of the organization.

Total amount of the cases on which legal aid was provided in the period from January to December 2008 is **192**. Of which **73** were referred to the organization via the AIP coordinators network in the country. In other cases the applicant requested for the legal aid either directly coming to the office or by e-mail and phone. Of that category **59** cases were connected with the consultations provided to citizens, other **33** – consultations for NGOs, and **20** cases were connected with the applications filed by the journalists working for central and local media. Habitually, we have applications from the representatives of the administration who asked for the consultations in order to overcome the difficulties in implementing APIA.

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2006**

The information requested by the applicants is broad. Most cases reflect on practice of non-observance of the certain obligations from the part of governmental institution under the Access to Public Information Act -- **116**, the others are dealing with the violations of the right to protection of the personal data – **17**, and right to request, get and disseminate information in general -- **52**. Statistically the high percent of cases are those when the information request is referred to the central administration after the institutions of the local authority – municipal authorities, court authorities and commercial organizations, subsidized of the state budget (See: Annex 3 – *Statistic data from the data base of AIP*).

In 2008, AIP provided pro bono legal aid:

- **Consultations in person for the cases connected with the access to information** – consultations in person for the cases connected with access to information are usually provided either by phone or in the office.

- **Written consultations in the following two categories:**
 - Written comments of the cases, referred by the journalists form the AIP Coordinators network – in 2008, we prepared **79** comments;
 - Written consultations on the cases referred by e-mail **75**.

- **Lodging complaints regarding access to information on behalf of citizens, journalists and NGOs when getting information was connected with difficulties** – in some cases it was necessary to send information request again, as for example when there was no response on the previous request. Sometimes, in order to get full information it was necessary to send requests to several institutions, which carry out joint activities in the certain field. Such is the case of *WWF Danube-Carpathian Programme*, Office in Bulgaria, who requested information for illegal construction in Vitosha mountain related to the ongoing construction of ski-tourist area *Aleko* , initiated by the *Vitosha Ski JSC*. For the purposes of its search, the association submitted a number of requests to the Sofia Municipality, the Ministry of Environment and Water, Sofia Regional Inspectorate on Environment and Water, State Forestry Agency, State Forestry Management - Sofia.

- **Compiling the appeal to the court** – In the period January – December 2008, AIP prepared **45** applications (letters of appeal) to enable people to go to courts and seek protection of their right to access to information. As it was already established through our practice, in some cases, submission of appeals is enough to persuade the public institution to release the denied information. Such a case was the one when AIP submitted of a complaint against the silent refusal of the Ministry of Foreign Affairs to the request about the position of the Republic of Bulgaria with regard to the draft of a Convention on Access to Official Documents. After the submission of the complaint, the Ministry of Foreign Affairs answered our request. Similar development received the case of Ms. Maria Fakirova -- after the submission of a complaint against a tacit refusal of the Ministry of Regional Development and Public Works about the approved and disproved project proposals for co-funding under the PHARE program, the information was provided.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

As a whole, the consultation provided by the legal team of AIP have led to some important results: easier identification of the information sources; easier identification of the information holders. A certain trend in 2008 is the increased number of cases referred to us for legal consultation from the country regions as well as the increased number of information requesters who referred their cases of violated right-to-information to the regional courts. The trend is obvious through the considerable number of 10 appeals filed by AIP lawyers to the regional administrative courts in Bulgaria.

3.2. Representation in the court

The legal team of AIP continued to provide legal assistance to citizens, NGOs and journalists bringing cases of information refusal to the court. In 2008, AIP prepared **45 complaints** on behalf of citizens and organizations. Out of this number, the complaints submitted to a first instance court are **30** (Supreme Administrative Court - **5**, Sofia City Court – **1**, Administrative Court, Sofia City – **14**, administrative courts in the country – **10**); court appeals are **11** and the rest **4** are appeals against court rulings.

Out of the total thirty complaints submitted to the first instance court, nineteen are against explicit refusals of provision of access to information, while those against silent refusals are less – eight. In two of the cases, a refusal of access to premises was appealed. In one of the cases, an appeal was submitted against a secondary legislative act, namely Regulation 40, issued by the State Agency on Information Technologies and Communication and the Ministry of Interior.

For example, with the legal help of AIP, the explicit refusal of the Sofia Regional Prosecutor's Office to provide information to the citizen Ivan Petrov regarding the number and types of official stamps used by the Sofia Regional Prosecutor's Office was appealed. The refusal was grounded on the state secret exemption. With a decision as of October 2008, a panel of the Administrative Court - Sofia City repealed the refusal assuming that the mere statement that the requested information constituted state secret did not classify it as such. The decision has not yet come into force.

In another case, the explicit refusal of the Chief Secretary of the National Assembly to provide access to the building of the National Assembly to a journalist shooting a movie for the National Film Center was appealed. The movie was related to one of the important events in the public life of Bulgaria for the last 18 years -- setting the former Communist Party building on fire in 1990. (Currently, the committees of the National Assembly hold their sessions in that building.) With a decision as of December 2008, a panel of the Administrative Court Sofia City repealed the refusal and obliged the Chief Secretary to provide the requested access on days and time which according to his discretion would be most convenient with regard to the proper functioning of the National Assembly.

Four court procedures were initiated on cases referred to us by the citizen Nikolay Tsvetkov from the city of Varna who has received subsequently the Honorary Diploma in the category *Citizen who has most actively used the Access to Public Information Act* on the ceremony, held to celebrate the International Right to Know Day on September 28.

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2006**

In one of these cases, with the legal help of AIP, the explicit refusal of the Chief Secretay of the Municipality of Varna to provide access to the job descriptions of the Mayor, the Chief Secretary, the Director of the *Social Activities and Housing Directorate*, and the Manager of the *Sport Properties* municipal company in the form of a paper copy was appealed. In other case the Chief Secretary of Varna Municipality refused to provide a copy of the contract signed between the municipality and the Regional Office of the Ministry of Interior for safeguarding public order within the territory of the Municipality of Varna. The refusal was grounded in the third party exemption (namely, the interest of the police department itself) and its consent for the disclosure of the requested information had not been obtained. The main argument in the appeal was that under the provision of Art. 31, Para 5 of the Access to Public Information Act the necessity for obtaining the concept of a third party is excluded in the case when the third party is an obliged body and the information referring to it is public under the law. In that case, the hypothesis is applicable as the third party itself – Regional Office of the Ministry of Interior – is an obligated body under the Access to Public Information Act like a state authority pursuant to the Access to Public Information Act.

An improvement with regard to the execution of court decisions by the administration was observed during the last year. After the submission of a request, prepared by AIP, the Supreme Administrative Court imposed a fine to the Minister of Interior at the amount of 200 BGN (100 Euro) for not fulfilling an obligation under the Access to Public Information Act which was established by an effective SAC decision within the course of one year. The Minister disrespected his obligation to decide on a request submitted by Yordan Todorov (A journalist from the *168 Hours* weekly.) after a court decision as of July 2007 had repealed the Minister's initial refusal to provide access and turned the request back to him for reconsideration. In their judgment, the justices dismissed the argument of the minister that the delay was caused by the procedure of seeking the third party's consent since no evidence for the minister's issuing of decision on the request existed at that moment (July 2008). That court decision as of July 9, 2008 is the first court decision in AIP litigation experience which imposes a fine on an executive body for not fulfilling an obligation under the Access to Public Information Act.

In 2008, AIP has provided representation in court in **56** cases when provision of information had been refused. During that period, the legal team of AIP prepared **10 written defenses** for litigation supported by the organization. In the reported period, courts issued a number of decisions related to the interpretation and implementation of the restrictions to the right of access to information.

In one of these decisions, the court ruled that a contract signed between the State Tourism Agency and a private company for the provision and exploitation of an exhibition stand at the global exhibition of travel agencies *World Travel Market 2007* held in London, is public. It was the conclusion of a panel of the Administrative Court Sofia City in a court decision stated on that case on June 11, 2008. The refusal of the Chairman of the State Tourism Agency was grounded in the mere statement that the information was related to the interests of a third party (the private company) and its consent for the disclosure had not been obtained, it was also only stated that the requested information constituted trade secret since a clause of confidentiality was included in the signed contract. The judgment stressed out that the information about the presentation of Bulgaria as an attractive destination and the advertisement of

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2006**

tourism in the country was of particular importance for the majority of citizens. It was also stated that the contract had been terminated and at that time was not effective between the parties which unbound them from its clauses. In this regard, the court panel found that the Chairman of the State Tourism Agency was not bound with the clauses of confidentiality and should have provided the requested information.

In another decision, a five-member panel of the Supreme Administrative Court assumed a broad interpretation of the term “description of public information” and thus has altered the court practice according to which if an initial request for access to information is formulated as a request for access to a document, it is not a request for access to public information, as the request does not contain a description of the requested information as required by the Access to Public Information Act. With a decision as of July 24, 2008, a five-member panel of the Supreme Administrative Court repealed the decision of the lower instance court, as well as the refusal of the Minister of Culture to provide access to public information to Mr. Yuriy Valkovski regarding a copy of a minister's Order for the appointment of a working group to draft a Regulation under the Protection and Development of Culture Act. In their judgment, the justices stated that the lower instance court had wrongly assumed that the formulation of the initial request -- for access to a copy of an order -- was not a request for access to public information since it had not contained a description of the information as required by the Access to Public Information Act. A conclusion of that kind was in contradiction to the provision of Art. 26, Para. 1, Item 3 of the Access to Public Information Act according to which, one of the forms of provision of access to public information was a paper copy. Thus the requirement was literally fulfilled - the request for access to a copy of an order was a lawful request for access to public information under the Access to Public Information Act. Furthermore, the title of the order itself -- for the appointment of a working group to draft a Regulation as required by Art. 5, Para. 4 of the Protection and Development of Culture Act -- contained the description of the requested information which should be contained in the specified form - a copy of the order.

In another decision, as of October 22, 2008, the court found that the information about the money allocated by the municipality to the local media for the publication of decisions, orders, announcements, invitations, protocols, and other official acts of the municipality was public information under the stipulations of the Access to Public Information Act and should be provided at a request. Access to the information should not be refused on the ground of the protection of third party interests and the lack of their consent since in those cases, media, regardless of acting as companies performing free economic activities, performed activities of promulgation and dissemination of decisions of the municipality financed by the municipal budget. That was why media were not third parties as meant by the provision of Art. 31, Para. 2 of the Access to Public Information Act, but obliged bodies as stipulated by the provision of Art. 3, Para. 2, Item 2 of the Access to Public Information Act. This was the judgment of a panel of the Supreme Administrative Court on the case of the Association *Non-Governmental Organizations Center Razgrad* against a refusal of the Mayor of the Municipality of Razgrad. With that decision, the justices of the Supreme Administrative Court repealed the decision of the Administrative Court - Razgrad, as well as the Mayor's refusal, and turned the request back to him for compliance with the court instructions with regard to the implementation of the law.

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2006**

With a decision as of September 11, 2008, a panel of the Administrative Court - Sofia City repealed the refusal of the Chief Secretary of the Ministry of Environment and Water, Mr. Tamer Beysimov, to provide to the National Movement *Ekoglasnost* access to the Protocol from the session of the National Council on Biodiversity held on November 25, 2007, when the buffer zone of Rila mountain was not included in the network for protected environmental areas NATURA 2000 because of two votes short. Even more, the court obligated the Ministry of Environment and Water to provide the requested document within 14-days period after the decision came into effect. The environmentalists expect to save the buffer zone of *Rila* National Park from initiating constructions which will cause unfavorable impact on the environment through the transparency achieved by the court procedures.

Among the very important litigation cases during the year was that against the Regulation 40 on the retention and access to data of the mobile operators and Internet companies issued by the State Agency on Information Technologies and Communication and the Ministry of Interior and adopted in January 2008. The adoption of the Regulation triggered a massive wave of criticism and rage among the civil society and business community in the country, as it implies serious intrusion in private life and correspondence. The Regulation allegedly puts Bulgarian legislation in conformity with the Directive 2006/24/EC. According to the Directive, companies providing publicly available electronic communication networks and/or services shall be obliged to retain data for all mobile calls: date and hour, place and participants in the communication; as well as for all electronic messages (via Internet). On March 19, 2008, AIP submitted an appeal to the Supreme Administrative Court, setting forth the question about the lawfulness and the constitutionality of the adopted Regulation. A three-member panel of the Supreme Administrative Court dismissed the appeal with their decision as of July 17, 2008 without ruling on the arguments presented in the appeal that the Regulation was in violation of Art. 32 and Art. 34 of the Bulgarian Constitution, as well as of Art. 8 of the European Convention on Human Rights.

The court decision was appealed again and in a decision as of December 11, 2008, a five-member panel of the Supreme Administrative Court ruled that the provision of Art. 5 of the Regulation did not set any limits with regard to the data access by a computer terminal. Also, the requirement “for the needs of the operational-investigation activities” was too broad and did not provide for any guarantees for the protection of the right to privacy stipulated by Art. 32, Para. 1 of the Bulgarian Constitution. Furthermore, no limits were set forth against misuse of the possibility for violation of constitutionally granted rights of the citizens in contradiction to Art. 8 of the European Convention on Human Rights. Reference to specialized laws - such as Penal Procedure Code, Special Surveillance Means Act, Personal Data Protection Act - which specify conditions under which access to specific data related to the private life and personal data of the individual shall be granted, was not provided either. Based on that judgment, the five-member panel of the court repealed the decision of the lower instance court and the disputable Art. 5 of the Regulation.

In 2008, Access to Information Programme published the fourth volume of the book **Access to Information Litigation in Bulgaria**. The book contains analytical part which reviews the main issues that have emerged in the court practice with regard to the Access to Public Information Act during the last years. Summaries and twenty-seven decisions on 14 court cases in which AIP legal team has provided legal help, including court representation, were included as appendices to the book

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2006**

4. Clarification and trainings on the Access to Public Information Act (APIA), Personal Data Protection Act, and Protection of Classified Information Act

4.1. Discussion meetings on the freedom of information organized for journalists and editors-in-chief

In 2008, AIP organized trainings and workshops on freedom of information for editors-in-chief, journalists and students in journalism in the country regions of Bulgaria. The total amount of all participants in these trainings is **434**.

Within the framework of the project **Local Media and Freedom of Information in Bulgaria**, financed by the MATRA Programme of the Netherlands Ministry of Foreign Affairs and implemented by the Access to Information Programme together with the Dutch organization *The Management&Media Academy/Free Voice*, we organized and developed 3 training trips in 14 Bulgarian towns.

The first series of trainings for journalists were conducted on: April 2, 3, 4, 7, 8 and 9, 2008, respectively in the towns of Vidin, Montana, Vratsa, Pernik, Kyustendil, and Blagoevgrad. The total number of participants in the first 6 seminars was 121. The second series of trainings for journalists were held on June 23-26, 2008, in the towns of Pleven, Lovech, Gabrovo, and Veliko Tarnovo. The total number of participants in the four meetings organized during the second training trip in June was 57. The third series of trainings were held in the towns of Russe, Targovishte, Razgrad, and Shumen on October 13 – 16, 2008. The number of the participants was 75.

The aim of the trainings was to present the possibilities for investigation journalism provided by the laws for access to information in Holland and Bulgaria and to encourage the journalists from regional and local media to use these possibilities for their own investigations. During the trainings, tactics for successful use of the law in certain cases of journalistic investigations in Holland and Bulgaria has been presented. The documentary *Media and Access to Information - Five Investigative Reporter Stories* which presents five emblematic access to information litigation proceedings of journalists was shown at all workshops.

In the frames of the same project, AIP and the New Bulgarian University have signed a contract for educational presentations on freedom of information before students in the Mass Communications Department; AIP will provide training materials on freedom of information and will deliver training and internship programme in AIP for students from the New Bulgarian University. The first students of the internship programme participated actively in the organization of the Right to Know Day Awards Ceremony held by AIP on September 28, 2008. Lecturers from our team presented the AIP experience in access to information campaigns, the legislation concerning the right to access to information and its limitations as well as the litigation under the Access to Public Information Act before students and lecturers from the New Bulgarian University.

At the invitation of *Idealist* magazine, AIP organized and developed a training on freedom of information for the journalists in the magazine's team.

In 2008, AIP provided internship program for Zarangez Makhmudova, an intern from Tajikistan.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

The positive assessments on the trainings provided by AIP lecturers, the training materials developed by the organization, the analysis on the shared experience and the results achieved through the the workshops as well as the demand for expert opinion from our team shows that AIP is an effective freedom of information resource center and the number of clients interested in the freedom of information area who refer to us increasingly rises.

4.2. Presentation on the model Access to Information website within governmental institutions on the basis of the Access to Public Information Act and support to the process of providing electronic access to information was delivered at a meeting in the Ministry of State Administration and Administrative Reform

Within the framework of the project **Increasing Government Transparency and Accountability Through Electronic Access to Information**, implemented by AIP with the financial support of the *United Nations Development Program* (UNDP) for Bulgaria, AIP developed a model FOI web site in a governmental institution on the basis of the Access to Public Information Act: <http://www.aip-bg.org/model/>.

The model web site and the AIP recommendations for standardization of the requirements for the information provision at the institutional web site were presented at a meeting held on February 1, 2008 at the Ministry of State Administration and Administrative Reform. Before the representatives of the Ministry of State Administration and Administrative Reform and the Ministry of Foreign Affairs, AIP experts presented the project results achieved during the first year of the project implementation and certain recommendations for standardization of the content of the institutional web sites based on the adoption of a appropriate legal act.

Following the presentation of the *Access to Information in Bulgaria 2007* AIP Annual Report on May 9, 2008, there was a meeting held in the Ministry of State Administration and Administrative Reform, with the participation of Mr. Nikolay Vasilev, Minister of State Administration and Administrative Reform, Mrs. Maria Devizieva, Deputy Minister of the State Administration and Administrative Reform, Mr. Chavdar Tsonev, Director of the Public Relations and Protocol Directorate, and Mrs. Gergana Jouleva, AIP executive director. At the meeting, the main conclusions and recommendations for improvement of the access to information in Bulgaria provided by AIP in its annual report were discussed.

At the invitation of some institutions like the Bulgarian National Audit Office and the Committee for Disclosing the Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Army, the head of the AIP legal team, Mr. Alexander Kashumov, participated in a number of experts' meetings on the problems before the access to information.

In 2008, the cooperation between AIP and the Ministry of State Administration and Administrative Reform continued in the preparation and provision of a ceremony on the International Right to Know Day -- September 28. A representative of the Ministry of Administration and the Administrative Reform took part in the sessions of the Awards Committee and participated in the Award Ceremony in order to present the nominations in the category *Institution, which has most efficiently organized the provision of public information*.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

4.3. National Round Table on the challenges before the access to information for NGOs' representatives

Within the framework of the project **Strengthening NGOs in their Search for Public Information**, financed by PHARE Programme of the European Union to assist the applicant countries of Central and East Europe, Access to Information Programme held **National Round Table** about *Advocacy for Free Access to Information*. More than 80 representatives of NGOs, journalists and citizens from all Bulgarian regions discussed on the challenges before the free access to information in Bulgaria and formulated strategic trends for the advocacy work in that field. The summary of the problems faced in the process of searching for access to public information and certain recommendations for improvement in the FOI legislation and practices in Bulgaria were included in **Memorandum** (http://www.aip-bg.org/projects/phare/memorandum_eng.html) adopted by the participants in the National Round Table.

Mrs. Helen Darbishire, Executive Director of *Access Info Europe*, and Mr. Tony Bunyan, Director of *Statewatch*, took part in the **National Round Table**.

The conclusions and recommendations developed by the participants in the **National Round Table** were included in the Recommendations which are a component part of the AIP Annual Report *Access to Information in Bulgaria 2007*.

Members of the AIP team took part in different events organized by partner organizations such as workshops, conferences, etc (See: Annex 4 – *List of workshops, conferences and meeting in which AIP members took part in 2008*).

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

Public debate related to the legislation on freedom of information

The AIP campaign activities for better FOI practices and legislation in 2008 were focused on the adjustment of the obligations for active publication of information by institutions, including online; as well as limitation of the misuse of the trade secret exemption. In regarding to the campaign goals, in 2008, AIP supported the initiatives for legislative amendments in freedom of information. More information on that subject could be found here: http://www.aip-bg.org/documents/zdoi_campaign_2008.htm.

Another very important AIP campaign in 2008 concerned the explanation of the compliant submitted by AIP against Regulation 40 issued by the Ministry of Interior and the State Agency on Information Technologies and Communication on the retention and access to data of the mobile operators and Internet companies. Information about the litigation and the media coverage on it can be found here: http://www.aip-bg.org/documents/data_retention_campaign_11122008eng.htm.

Publications in media and TV programs

Participation of AIP in public debates on freedom of information legislation, court cases, supported by AIP and initiatives of the organization were covered in national and local media. Media campaign is a tool to promote the standards of the freedom of information. In 2008, AIP campaigns against the suggested amendments to the Access

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

to Public Information Act, against Regulation 40 issued by the Ministry of Interior and the State Agency on Information Technologies and Communication were widely covered in media as well as the ceremony of the Right to Know Day on 28th of September. The meetings on **Local Media and Freedom of Information** organized by AIP and our coordinators in different towns provoked the interest of the regional media.

Total amount of our publications and publications compiled with the help of the team and AIP coordinators for 2008 is **341** – in both central and local media (See: Annex 1 – *Publication of the Access to Information Programme, and publications compiled with its assistance – 2008, publications, Internet*, and Annex 2 – *Broadcast information revealed by AIP in 2008 in electronic media – radio and TV*).

Monthly electronic bulletin

Since 2004 AIP started to publish and disseminate electronic Bulletin on Freedom of Information. Twelve issues of monthly electronic bulletin containing analysis of the legislation, comments, recommendations, announces on events organized by AIP as well as news from Bulgaria and the world, were disseminated during the period January – December 2008.

Every issue of the bulletin is published on the web page of AIP (See: http://www.aip-bg.org/bulletin_bg.htm in Bulgarian.) Presently, there are 1,453 addresses of NGOs, media, citizens, state authorities and journalists subscribed to the bulletin.

In all 12 issues of the bulletin published throughout 2008 we published **75** articles provided by **16** authors. Every issue contains foreign materials on international best practices in the field of freedom of information, as well as positive and negative practices of Access to Public Information Act implementation in the regions of Bulgaria. Some of the publications from the bulletin are published by other media.

Publications of Access to Information Programme in 2008

In 2008, AIP compiled, published and disseminated Annual report on the access to information in Bulgaria in 2008. (A thousand copies were published in Bulgarian language and distributed among state institutions, members of parliament, NGOs and media.)

In September 2008, AIP issued the new book *Access to Information Litigation in Bulgaria 2005-2008: Selected cases*, volume 4. The book was presented at *The Red House* Center for Culture and Debate on September 17, 2008.

The book contains analytical part, which reviews the main problems related to the court practice on the Access to Public Information Act during the last years.

Authors of the analytical part and compilers of the appendices are Alexander Kashumov, head of AIP legal team, and Kiril Terziiski, from the AIP legal team. The analysis encompasses the development of both cases related to the exercise of the right of access to public information and to the implementation of the exemptions from the right of access to information. Summaries and twenty-seven decisions on 14 court

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

cases in which AIP legal team has provided legal help, including court representation, were included as appendices to the book.

Web page of AIP

Web page of AIP (<http://www.aip-bg.org>) is regularly updated. There we publish information on actual campaigns carried out by AIP during the year, news and important court cases, court rulings, comments and recommendations, guidelines and supporting materials on Access to Public Information Act, information on events organized by AIP and other information. All our publications are available on the web page, immediately after they are finalized in Bulgarian and English languages.

The server which supports AIP web page provides an opportunity to get access to detailed statistics and data. In 2008, the distinct web page visits for www.aip-bg.org is between 20,000 and 30,000 per month.

AIP maintains and updates a particular web page about the ceremonies held on September 28 -- the International Right to Know Day: <http://www.righttoknowday.net>.

In the end of 2008, AIP started a new web page for journalists *Access to Information and Journalistic Investigations*. The site is still under construction, we work on uploading information in its menu sections where the following main categories -- legislation, journalistic cases, litigation of journalists, journalistic investigations, supportive materials and documentaries, could be found.

International Right to Know Day

Since September 2003 AIP traditionally organizes the award ceremony of the Right to Know Day – 28 September. The aim of the ceremony is to promote the right to information. On this day activists in the field of freedom of information worldwide promote the idea of open and democratic society.

It is worth mentioning that the Right to Know Day is a part of initiative by International Network on Freedom of Information Advocacy (FOIANet <http://www.foiadvocates.net/>). And in 2008, organizations -- members of the Network organized various events on 28 of September (see: http://www.righttoknowday.net/index_eng.php).

AIP organized traditional annual award ceremony on 28 of September -- the Right to Know Day. The ceremony was attended by almost 100 journalists, administrative officials, representatives of nongovernmental organizations and citizens, and received wide media coverage. August and September issues of the AIP bulletin were dedicated to the 28 of September -- the Right to Know Day and awards of the ceremony in 2008.

5. Cooperation on national, regional and international level

Cooperation with institutions on national and local level

- Cooperation with the Ministry of State Administration and Administrative Reform
1. AIP expressed opinion on the access to information part of the questionnaire

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2006**

which Ministry of State Administration and Administrative Reform sent to all administrative structures in preparation of the 2008 Annual Reports of the Minister of State Administration and Administrative Reform;

2. AIP prepared and sent a summary of drafted recommendations for the content of an instruction regulating the type and the content of categories of information which shall be published on the Internet sites of the institutions to the Ministry of State Administration and Administrative Reform;
 3. On May 13, 2008, after the press conference for the presentation of the Annual Report Access to Information in Bulgaria 2007, challenges and opportunities for better regulation of electronic access and provision of information were discussed at a meeting in the Ministry of State Administration and Administrative Reform with the participation of Mr. Nikolay Vasilev, Minister of State Administration and Administrative Reform, Ms. Maria Divizieva, Deputy Minister, Mr. Chavdar Tsenov, Head of Ministry of State Administration and Administrative Reform Press Center, and Ms. Gergana Jouleva, AIP executive director.
 4. AIP opinion statements and Ministry of State Administration and Administrative Reform opinion statements on the draft amendments presented in the parliament in 2008 were discussed at meetings with representatives of both parties.
 5. In 2008, also as previous, Ms. Leonchia Seizova, Head of the State Administration Legal Regulations Department at the Organizational Development of the Administrative Structures Directorate, sent nominations for an institution which has most efficiently organized the provision of public information to be recognized with a *Golden Key Award* at the Right to Know Day Awards Ceremonies, September 28. Ms. Seizova also participated in the Right to Know Day Awards Committees also in 2008.
 6. In 2008, the Minister of State Administration and Administrative Reform attended the Right to Know Day Awards ceremony and presented two *Golden Key Awards* to an institution which has most efficiently organized the provision of public information and to an institution with the most FOI friendly web site. In April 2008, AIP supported the Press Center and Public Relations Directorate of the National Assembly in drafting Internal Rules for Access to Public Information in the National Assembly of the Republic of Bulgaria.
- On April 17, 2008, the Executive Director of AIP, Ms. Gergana Jouleva, presented the State of Access to Public Information Act Implementation in Bulgaria at the European seminar on the Transposition of the Directive 2003/98/EC on the Rre-use of Public Sector Information organized by the European Project ePSIplus at the European Commission Delegation in Sofia.
 - In September 2008, AIP expressed opinion statement on the prospective development and launch of an online register of public procurements contracted by the Municipality Sofia-City and all 24 regional administrations, as well as by companies with municipal shares and all secondary beneficiaries of budget funds. AIP opinion was sought by the Permanent Finance and Budget Commission at the Sofia-City Municipal Council, which sent a report and a draft decision proposing the uploading online of scanned procurement contracts, all annexes and applications, or summary of voluminous contracts which would

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

include information about the contractors, services they would provide, prices, deadlines and safeguards.

Freedom of Information Advocates Network (FOIANet)

- AIP took an active part in the campaign for better future Convention on Access to Official Documents drafted by the Group of Specialists at the Steering Committee on Human Rights at the Council of Europe. AIP signed and translated the open letter, initiated by the three international organizations with an observer status at the drafting process,¹ which called for the future treaty to fully reflect the prevailing standards on the right to information. AIP sent the letter to the National Assembly, to the Bulgarian representatives at the Parliamentary Assembly of the Council of Europe. AIP developed a special section on its web site where translation in Bulgarian all relevant information related to the drafting and adoption of the future convention is uploaded: http://www.aip-bg.org/documents/coe_convention_aod.htm. On November 27, 2008, the Committee of Ministers of the Council of Europe adopted an European Convention on Access to Official Documents, which is the first international binding treaty on access to information.
- On May 15—16, 2008, Alexander Kashumov, head of AIP legal team, participated in *The Restrictions* Conference held by the *Centre for Public Policy* PROVIDUS, Riga, Latvia. His contribution was in the panels Protection of National Security and NATO Secrecy and Protecting Confidence: Privacy and Commercial Secrets.
- AIP announced the launch of the *Publish What You Fund* – PWYF – Campaign through AIP newsletter. AIP experts contributed to the content of the specialized web site <http://www.right2info.org/>.
- AIP experts helped for the development of a specialized web cite *Right to Information: Good Legislation and Practices* <http://www.right2info.org/>.
- Executive Director of AIP Gergana Jouleva was the only representative of local NGO from Europe invited to participate in International Conference on the Right to Public Information, organized by *The Carter Center* in February 27-29, 2008, in Atlanta, Georgia: “State of ATI in the World: Challenges and Successes”. The 120 participants from intergovernment international institutions – *World Bank*, UNDP, ACHRs etc., governmental institutions, business, international NGOs adopted *Atlanta Declaration and Plan of Action* on access to information (http://www.cartercenter.org/resources/pdfs/peace/americas/ati_atlanta_declaration_en.pdf). Gergana Jouleva did a presentation “NGO Compensates for Administrative and Regulatory Deficiencies (AIP Experience in Bulgaria)” on the plenary session: http://www.cartercenter.org/peace/americas/ati_conference/proceedings.html?p

¹ Access Info Europe (<http://www.access-info.org>), Article 19 (<http://article19.org>), and Open Society Justice Initiative (<http://justiceinitiative.org>).

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

[review=true#plenary](#)

- AIP experts have been invited by partner organizations to take part in a number of forums, seminars, workshops and trainings regarding FOI implementation and litigation practices in Czech Republic, Ireland, Latvia, Poland, France, United Kingdom, Kazakhstan.
- The legal action initiated by AIP against Regulation 40 which binds the mobile operators and Internet providers to retain data on electronic messages and phone calls was presented at an international workshop “Data Retention in the Internet”, held in Budapest on September 19, 2008, Bulgaria being one of the five EU countries which challenges data retention legislation. The workshop was organized by the *Center for Media and Communication Studies* at the Central European University. With a court decision as of December 11, 2008, the Supreme Administrative Court repealed the most problematic provision of the challenged Regulation (http://www.aip-bg.org/documents/data_retention_campaign_11122008eng.htm).
- The head of AIP legal team, Alexander Kashumov, took part in a seminar at the European Court for Human Rights about “The European Protection of Freedom of Expression: Reflections On Some Recent Restrictive Trends”, held on October 10, 2008 and organized by *Robert Shuman University*, Strasbourg, *Ghent University*, and *Open Society Justice Initiative*. He also participated in a “Meeting with NGOs and applicants' representatives” organized by the European Court of Human Rights on October 13, 2008.
- The Head of AIP legal team, Alexander Kashumov, took part in the 2nd TAI Global Meeting, organized by *The Access Initiative* -- a global network that promotes access to information, participation, and justice in environmental decision-making. Representatives of forty countries met October 30 — November 1, 2008 in Sligo, Ireland. They shared achievements, evaluated challenges and discussed matters relating to access rights and good governance.

Countrywide Network of AIP coordinators

AIP continued to develop and maintain the Network of AIP coordinators in all 26 regions of Bulgaria. In 2008, AIP held 2 meetings with the coordinators from the Network – on February 8 and on September 28 – the Right to Know Day.

In 2008, AIP established **Coordinator of the Year** Award. The first award was bestowed to Diana Boncheva, AIP coordinator for the region of Yambol (http://www.aip-bg.org/passed_bg.htm).

In 2008 also as previously, AIP coordinators published and broadcast in the local and regional media findings from the *Access to Information in Bulgaria 2007* annual report. Furthermore, they sent nominations in the different categories for the Right to Know Day awards and ran the Right to Know Day public campaign in the 26 district cities in Bulgaria by disseminating leaflets, posters, and other promotional materials.

AIP coordinators helped the organization of training sessions in 14 cities with journalists from local media. **Local Media and Freedom of Information in Bulgaria**

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2006

discussion seminars were attended by 275 journalists and the topics discussed were widely covered by local press and electronic media.

11. Institutional Achievements

In 2008, Managing Board of AIP had two sessions.

On March 27, 2008, Managing Board had approved the Annual Report of AIP, presented by the Executive Director of the organization and approved the budget for 2008.

During the meeting on September 23, 2008, Managing Board of AIP discussed the current projects and its managing during the 3-months absence of the Executive Director.

For the time being, there are 8 employees in AIP: executive director, four lawyers, coordinator of the local network, project coordinator and office coordinator.

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

Zarangez Makhmudova, an intern from Tajikistan, underwent internship in AIP until October 2008 in the frames of Programme of the *Open Society Institute*.

Every Monday the team is planning its activities on the basis of the operative monthly plan and currently implemented projects.

Control over the legal aid provided by AIP foundation is carried out via the statistical reports contained in the data base.

AIP is managed by the Managing Board, the chairman of the board and executive director. Every year Managing Board is setting forth the priorities of the AIP foundation and twice a year inspects the work of organization.

Access to Information Programme as every year had undergone audit check and verification of the annual report of the organization.

Access to Information Programme provided its annual report to the Central Register of the legal persons with non commercial purposes under the Ministry of Justice.

04.02.2009
Sofia

Gergana Jouleva
Executive Director of AIP