



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

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

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

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

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

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5. Participation in public debates on access to information and freedom of expression issues.
6. Cooperation with partner organizations on national, regional and global level.
7. Institutional strengthening and development.

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## The main achievements in these directions are as follows:

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

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

#### **Participation in the public debate related to the amendment of the normative basis on the special surveillance means**

In early 2011 a public debate on the need for amendments to the legislation related to special surveillance means was held. The aim was to better and more effectively guarantee the right of privacy. In this respect the Minister of Justice invited AIP to participate in the working group proposing amendments to the Special Surveillance Means Act. Alexander Kashumov, Head of AIP Legal team, took part in the meetings of the working group held on February 14, 15 and 18, 2011. He also assisted the discussions and round tables, organized by: the Supreme Cassation Prosecutor's Office on February 17, 2011; by the [Standing Subcommittee to implement the parliamentary oversight and monitoring, stipulated in art. 34b of the Special Surveillance Means Act and art. 261b of the Electronic Communications Act with the Legal Affairs Committee](#) on February 21, 2011. On May 19, 2011 AIP submitted a statement on the necessary amendments of the at the Special Surveillance Means Act at the invitation of the Vice-President of the National Assembly *Anastas Anastasov*.

#### **Campaign For Publicity of the Trade Companies Register**

In 2011 the debate on dubious amendments of the Trade Register Act (TRA) has continued. On February 21 and 23, 2011 Alexander Kashumov met with the Chair of the parliamentary Legal Affairs Committee – Iskara Fidosova and the MP Emil Radev, one of the drafters of the proposed amendments. On February 24, 2011 he took part in the discussion of the draft bill within the Legal Affairs Committee.

#### ***Participation in the State Commission on Information Security workshops on the regulation of the “official secret”***

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On April 6, 2011 and June 10, 2011 Alexander Kashumov, Head of AIP Legal team, and Kiril Terziiski, attorney-at-law, participated in discussion organized by the State Commission on Information Security on issues relating to the determination of categories of information which may be classified as “official secret”.

### **Participation in the discussion on amendments of the State Administration Act**

On June 8, 2011, Gergana Jouleva, Executive Director of AIP, and Alexander Kashumov, Head of AIP Legal team took part in the discussions on the draft bill amending the State Administration Act organized by the parliamentary Culture, Civil Society and Media Committee and the Legal Affairs Committee. AIP upheld its position against the proposed amendments.

### **Statement to the Commission for Personal Data Protection (CPDP)**

In October 2011, AIP submitted an opinion to the CPDP upon its request with regard to a specific case relating to the applicability of the APIA.

### **Statement to the “Archives” State Agency on the access to information from the Archives**

In December 2011, AIP submitted a statement to the “Archives” State Agency on its specific question whether personal data of public figures and related persons contained in the archives may be published.

### **Other participations**

Participation in round table “Police violence”, held on May 12, 2011 at the Ministry of Interior. The question of access to inspection reports upon complaints for police brutality was raised.

On December 2, 2011 Gaergana Jouleva and Alexander Kashumov took part in a press conference, organized by the Society Electronic Communications, the Association of Independent Internet Service Providers, Internet Society Bulgaria, Access to Information Programme and the Association of Bulgarian Cable Operators. A firm critical opinion was expressed with regard to proposed amendments of the Gambling act, one of which threatened the freedom on the internet.

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

In 2011, the monitoring was performed by:

- Systematization of cases referred to AIP in which the legal help has been providing consultations. The number of these cases in 2011 is 330, while 577 legal consultations have been provided. Statistics from AIP data base is an indicator for the APIA implementation and problematic issues in the freedom of information (FOI) area.
- Systematization and analysis of court practices on cases when administrative decisions for refusals to provide access to information. On April 15, 2011, AIP held the conference *Access to Information Litigation in Bulgaria*. Systematized review of the court practices within the period 2009-2010 was presented. Currently, a special module to be integrated in the Internal Information System of AIP is being developed for the systematization of the Access to Public Information Act court cases.
- Within February 22 – March 25, 2011, AIP performed an audit on institutional web sites with regard to the implementation of the obligations for online publication of certain categories of information by the executive power bodies at a central, regional, and local level.

AIP has reviewed 495 web sites out of a total of 516 institutions at a central, regional and local level. 21 institutions still do not have official web sites.

The web sites audit was based on several groups of indicators which encompass the standards for active disclosure of information under the APIA and other regulations:

- Institutional information - legal basis of the institution, functions, services provided, data bases and information resources;
- Organizational structure and contact information;
- Operational information – acts, strategies, plans, activities;
- Financial and other transparency – budgets and financial reports, contracts, conflict of interests declarations;
- Existence and content of the **Access to Information** sections.

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Also, 505 requests were filed electronically for access to the Internal APIA Implementation Rules in an electronic form, or by signifying the exact link to the web address where they could be found. The purpose was to evaluate the readiness of the public bodies to respond to electronic requests for information.

The 2011 audit results are available on AIP web site: <http://www.aip-bg.org/en/surveys/2011/102395/>.

The analysis of the results is part of the AIP annual report *Access to Information in Bulgaria 2010*: [http://store.aip-bg.org/publications/ann\\_rep\\_eng/2010.pdf](http://store.aip-bg.org/publications/ann_rep_eng/2010.pdf).

The annual report *Access to Information in Bulgaria 2010* was presented on May 4, 2011 at a pressconference in Sofia:

[http://www.aip-bg.org/en/news/Time\\_For\\_Active\\_Transparency\\_Control\\_and\\_Sanctions/20110704004447/](http://www.aip-bg.org/en/news/Time_For_Active_Transparency_Control_and_Sanctions/20110704004447/)

This already traditional report (11 reports have been prepared since the adoption of the APIA in 2000) presents systematized results from monitoring of implementation practices, analysis of legislative amendments and APIA litigation. The report contains recommendations to the executive and legislative authorities in Bulgaria for the improvement of access to public information practices.

Within the period July – November 2011, AIP reviewed the legal framework and the real functioning of the public registers, maintained by the public bodies at a central, regional and local level. The survey is a kind of continuation of the review of the public registers done by AIP team in 2000, before the Access to Public Information Act was adopted. As a result the first handbook *Public Registers* was published in 2000.

The 2011 survey included a review of the legislation regulating the creation and maintaining of public registers, of their factual availability in the Internet sites of the central government bodies, and resulted in the launch of the web portal: [www.publicregisters.info](http://www.publicregisters.info). At the current moment, the survey covers the public registers at a national level.

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In 2012, AIP will continue the review of the public registers maintained by the municipalities and by the regional units of the government bodies. The survey results incorporated in the web portal [www.publicregisters.info](http://www.publicregisters.info) provide information about the data bases, maintained by the institutions, and complete the picture of the developments in the open government area. The product launched on the base of the survey will be presented at seven training sessions with local and regional media journalists in 2012.

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

#### **General Characteristics**

Provision of legal help is among the priorities in Access to Information Programme activities. This year, part of the annual report focuses on cases referred to us for legal consultation by citizens, journalists, and nongovernmental organizations who have had difficulties exercising their right of access to information. In some of these cases, AIP has provided legal help at the initial phase of the search for information and the legal team has given advice and/or has prepared a request for access to information. In other cases, we have helped after a refusal for provision of information.

An essential part of the legal assistance provided by the AIP legal team of AIP is drafting of complaints against refusals and court representation in cases referred to us (detailed information see below – 3.2).

#### **Number of Cases Referred for Legal Help**

The number of cases referred to AIP for legal help within the period January – December 2011 is **330**. Out of these, **24** cases were sent by AIP coordinators in the regional cities of the country. In the rest, help was sought either in the office, by e-mail, or by phone. The number of the consultations provided on these cases is larger – 577. The reason is that in some cases, more than one consultation was necessary.

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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 – **257** instances;
- Next largest group of cases is related to violations of the right of personal data protection granted by the Personal Data Protection Act – **47** instances;
- In a few cases, we have given legal advice with regard to violation of the right to seek, receive and impart information – **15** instances, etc;

### **Most Active Groups of Information Seekers**

AIP experience shows that most frequently the APIA is used by citizens, journalists and nongovernmental organizations. In 2011, again the largest number of consultations was provided to citizens who had sought the assistance of AIP - **203** instances. In **80** cases, journalists and AIP coordinators (all of them journalists) from central and local media asked for legal assistance, while **34** cases were referred to AIP by NGOs.

### **From Which Public Institutions Do Information Seekers Mainly Request Information?**

The number of cases in which information seekers request information from the central executive power bodies and the local self-government bodies (mayors and municipal councils) is the largest - **123** and **100** cases respectively.

In a few cases, information was sought from regional units of the executive power bodies (**16**), public-law organizations (**31**), public-law entities (**13**), from the judicial power bodies (**14**), etc. (See Appendix 1: Statistics from the Data Base of Access to Information Programme).

### **Most Frequently Used Grounds for Refusal**

The highest number of registered refusals in 2011 is that of the silent refusals - **32**. Out of the grounded refusals, the most are related to the third party interests' exemption (Art. 37, Para. 1, Item 2 of the APIA) – **18**; and the personal data

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protection - **15**. Eight are the refusals based on the trade secret exemption and 10 are grounded on the exception provided by Art. 13, Para. 2 of the APIA.<sup>1</sup>

### **Specific Characteristics of the 2011 cases**

The continuing tendency of increase in the number of cases referred for legal help remains in comparison to the previous year remains.

For example, in 2008 the number of cases was **235**, while in 2009 and 2010 the cases were **328** /the number was the same for the two successive years/, in 2011 the number is even higher - 330.

The number of cases related to the right of access to information has also been increasing – from **151** in 2008; **237** in 2009; **248** in 2010 to **257** in 2011.

In 2011 the number of citizens who sought AIP advice has also increased. In 2010, their number was **144**, while in 2011 it is **203**.

More and more citizens, nongovernmental organizations and journalists refer their cases to AIP through the electronic mail. The number of written consultations provided by e-mail in 2010 was **137**, while in 2011 they are **219**.

### **Type of Legal Help Provided**

In 2011, AIP legal team has provided pro bono legal help in the following ways:

**1.** Oral consultations on referred cases related to access to information – by phone or at the AIP office. The number of cases consulted by phone is **207**. **149** cases were consulted at the AIP office.

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<sup>1</sup> The article provides that access to administrative public information may be restricted if it:

1. relates to the preparatory work of an act by the bodies, and has no significance in itself (opinions and recommendations prepared by or for the body, reports and consultations);
2. contains opinions and statements related to on-going or prospective negotiations to be led by the body or on its behalf, as well as any data relating thereto, and was prepared by the respective bodies' administrations. After the 2008 amendments to the APIA an assessment should be made considering the overriding public interest.

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2. Written consultations on 221 cases were given by electronic e-mail and only in two cases. The legal team of AIP drafts or advises the preparation of access to information requests, drafts complaints against information refusals, prepares written defenses and provides representation in court in cases which qualify for the provision of free legal help.

### **3.2. Legal assistance in court cases and representation in courts**

The legal team of AIP has continued to provide legal assistance to citizens, nongovernmental organizations, and journalists bringing cases of information refusal to the court. In 2011, AIP legal team prepared 73 complaints and written defenses on behalf of citizens (42), non-governmental organizations (12), journalists (18) and one on behalf of a private company.

In 2011, AIP legal team prepared 53 complaints. Out of this number, the complaints submitted to a first instance court are 31 (Supreme Administrative Court (SAC) - 2, Administrative Court - Sofia City (ACSC) - 20, administrative courts in the country – 9. The court appeals are 11 and the rest 11 are appeals against court rulings.

Out of the 31 complaints filed to the first instance court, 22 were against explicit refusals of access to information, and 8 were against silent refusals. In one of the cases the complaint is against the authority's omission to act pursuant to Art. 256 of the Administrative Procedure Code (APC).

In 2011, AIP provided court representation in 59 cases in which access to information had been denied. AIP legal team prepared 20 written defenses in court cases assisted by the organization.

Seventy-seven court decisions and rulings were delivered on cases assisted by AIP (Supreme Administrative Court - 38; Administrative Court - Sofia City - 26; administrative courts in the country - 13). In 44 cases the court ruled in favor of the information requestors, while in 33 in favor of the public authorities

**Extended scope of obliged authorities**

In 2011 important case-law on the extended scope of obliged body (pursuant to the 2008 APIA amendments) has been delivered. It should be noted that the ACSC ruled that the Chamber of Architects and the community centers (chitalishte) are obliged bodies under the APIA. In 2011 the SAC, considered several cases as a second instance against the National Electric Company (NEC). The cases were brought in 2010 by the Green Policy Institute Foundation and the Institute for Market Economics. In the end of 2010 and the beginning of 2011 the ACSC terminated all proceedings, ruling that the company was not obliged body under the APIA. Unfortunately, almost all first instance rulings were upheld by the SAC. However, the supreme magistrates repealed one ruling of the first instance court assuming that the National Electric Company was a body obliged to provide information, and more specifically, information about the construction of the project Nuclear Power Plant Belene since the company receives funds from the consolidated state budget for the implementation of the project for the construction of the new nuclear power plant.

With a decision as of December 22, 2012 the ACSC repealed the refusal of the Chamber of Architects. According to the court the Chambers of Architects and Engineers of Investment Design Act vested the CAB with public functions. Therefore, the CAB is obliged body within the meaning of Art. 3, Para. 2, Item 1 of the APIA.

With a ruling<sup>3</sup> as of May 16, 2011 the SAC repealed the first instance ruling for termination of proceedings brought by the Green Policy Institute Foundation against the National Electric Company(NEC). The NGO sought access to the loan agreement between the NEC and the BNP Paribas for the amount of 250 million Euros for the construction of NPP Belene. In January 2011, the ASCS as a court of first instance ruled that the NEC is not an obliged under the APIA body, therefore terminated the proceedings. The SAC, though, found that the NEC is obliged under the law since the company receives funds from the consolidated state budget for the implementation of the project for the construction of the new nuclear power plant.

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<sup>2</sup>Decision No. 4374 as of December 22, 2010 of the ACSC, Second division, 27th panel, adm. case No. 6720/2010

<sup>3</sup>Ruling No. 6740 as of May 16, 2011 of the SAC, Fifth division, adm. case No. 3129/2011z.

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With a decision as of October 12, 2011<sup>4</sup> the ACSC repealed the silent refusal of the Chairperson of Rayna Knyaginya Community Center in Sofia. According to the Court the community centers are obliged bodies under the Art. 3, Para. 2, Item 2 of the APIA being legal entities with activities funded from the state and/or municipal budget. Therefore, the Chair, as legal representative of the community center, is required to issue an explicit decision upon access to information request.

### **Overriding Public Interest**

#### **Access to contracts and commercial information**

One of the most important amendments of the APIA in 2008 was related to narrowing the scope of the commercial (trade) secret exemption. This was especially valid for contracts between public bodies and private companies where there was practice of secrecy and denials in the sake of the protection of “trade secrets.” After the 2008 amendments which explicitly set forth what type of information could not be exempted as commercial secret, such contracts should be disclosed in principle following the overriding public interest test.

In 2011 in several cases, supported by AIP the courts found overriding public interest in disclosing the information sought and repealed refusals of the public authorities on this ground. AIP noted that the balance of interests and the assessment of the presence of public interest were considered by administrative courts in the country. Twice the Administrative Court – Lovech repealed the refusal of the Mayor to provide access to contracts between the municipality and private companies. The Administrative Court – Smolyan repealed the Mayor’s refusal to provide information on the costs of two municipal contracts.

With a decision as of December 29, 2010<sup>5</sup> the Administrative Court – Lovech repealed the refusal of the Mayor to provide access to the contract between the municipality and a private company for the repair works of the respite care facility in town. The Mayor grounded his refusal on the fact that the information sought is protected as trade secret and affects third parties who did not consent to the provision of information. The Court found that this consent was not to be solicited

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<sup>4</sup>Decision No. 4642 as of October 2011, of the ASCS, First division, 16<sup>th</sup> panel, adm. case No. 4092/2011.

<sup>5</sup>Decision as of December 29, 2010 of the Administrative court – Lovech, adm. case No. 197/2010.

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since the third party was also required to provide information because receives funds from the municipal budget. The Court emphasized on the presence of overriding public interest in disclosure of the information.

With a decision as of February 2011<sup>6</sup> Administrative Court – Lovech repealed the Mayor’s refusal to provide a copy of the contract between the Municipality and a private company for the construction and maintenance under the project “Improvement of the physical and vital environment in the municipality of Lovech” financed under Operational Programme “Regional Development” 2007-2013. The court refuted the arguments that the information was protected as trade secret and held that even if this was the case the Municipality should have assessed the overriding public interest. According to the court such is undoubtedly present when it comes to public procurement contracts.

With a decision as of June 16, 2011<sup>7</sup> the Administrative Court – Smolyan repealed the Mayor’s refusal to provide information on contracts for waste management and waste treatment. The court emphasized that pursuant to the law, there was a presumption of overriding public interest in the disclosure of the requested information.

### **Revealing wrongdoings**

In other cases the court repealed refusals to provide information on the ground of overriding public interest when the information aimed at revealing wrongdoings.

With a decision as of January 10, 2011<sup>8</sup> the ACSC repealed the refusal of the Chief Secretary of the Ministry of Economy and Energy to provide full access to a report on the substitution (with not licensed and not enough risk protected fuel) of nuclear fuel in the nuclear power plant in Kozloduy. The Court found that there was overriding public interest in disclosure since the report focuses on specific facts revealing the presence or lack of correction scheme for the replacement of fresh nuclear fuel with recycled.

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<sup>6</sup>Decision as of February 16, 2011 of the Administrative court – Lovech, adm. case No. 196/2010.

<sup>7</sup>Decision No. 195 as of June 16, 2011 the Administrative Court – Smolyan, adm. case No. 169/2011.

<sup>8</sup>Decision No. 109 as of January 10, 2011 of the ASCS, Second division, 30<sup>th</sup> panel, adm. case No. 2889/2010.

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With a decision as of June 1, 2011<sup>9</sup> a five-member panel of the SAC upheld the decision<sup>10</sup> of a three-member panel as of February 2011 repealing the refusal of the Ministry of Agriculture and Food to provide information on the licensing for the selection of the breed Bulgarian Shepherd Dog. The nongovernmental organization International Association Karakachan Dog, town of Plovdiv requested information about the application procedure for a license for the selection of the breed by another non-profit organization Bulgarian Cinologic League for Bulgarian Shepherd Dog, town of Montana. With a decision as of February 2011, a three-member panel of the SAC repealed the refusal of the minister in its part where the complete license application documents submitted by the Bulgarian Cinologic League for Bulgarian Shepherd Dog were refused. In their judgment, the justices signify that the public debate for many years on the question if the recently registered breed Bulgarian Shepherd Dog was different or identical to the breed Karakachan Dog clearly emphasize the existence of overriding public interest in the disclosure.

### **Access to information – access to documents**

Although in recent years was established significant case-law that pursuant to the APIA one may seek access to information and/or access to a specific document (as the document contains information but in specific form) in 2011 the court had to quash twice the refusals of the public authorities motivated by the fact that the requestor sought specific document.

With a decision as of February 23, 2011<sup>11</sup> a five-member panel of the SAC obliged the Minister of Interior to provide the information sought by the citizen William Popov from the former Ministry of Emergency Situations. He requested a copy of the contract for the design, construction, and maintenance of the Aerospace Observation Center between the Ministry and a private company – “Kontrax”. Access was denied on the ground that pursuant to the APIA, a requestor may only seek access to information but not access to documents. The Court hold that “the obligation for provision of the information does not depend on the material carrier. The material carrier of the information - in the specific case – a document, was not being

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<sup>9</sup>Decision No. 7619 as of June 1, 2011 of the SAC, five-member panel, adm. case No. 4389/2011.

<sup>10</sup>Decision No. 2139 as of February 11, 2011 of the SAC, Fifth division, adm. case No. 2342/2010.

<sup>11</sup>Decision No. 2761 as of February 23, 2011 of the SAC, five-member panel, adm. case No. 13930/2010.

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requested for its material subject but for its information content". This is the third decision of a five-member panel of the SAC since the adoption of the APIA in 2000 emphasizing that it is irrelevant for the obligation of the authority to provide information whether the requestor has formulated a request for access to information or to specific document.

With a decision as of July 7, 2011<sup>12</sup> the ACSC repealed the refusal of the Sofia Chief Architect to provide list of documents contained in a file relating to order prohibiting a construction. According to the Chief Architect the request was not valid under the APIA as it aimed at the provision of document as material carrier of the information. The court ruled that the obligation for provision of the information does not depend on the material carrier.

### **Access to information and personal data protection**

During 2011, AIP supported several cases where the administration refused access to information on the ground of personal data protection. In two cases the court repealed refusals to provide the names of members of committees. The first case was about the list of persons, invited as guests to three official receptions held by the President. The refusal of a ministry to provide information whether bonuses were allocated to the civil servants was repealed. Three identical cases were initiated against the refusal of the Ministry of Finance to provide information on the allocation of state subsidy attributed to independent Members of Parliament (MP).

With a decision as of April 14, 2011<sup>13</sup> the ACSC partially revoked the refusal of the Chief Secretary of the President to provide information about the names of the members of the Pardons Committee and the names of the persons to whom pardon was granted in 2008 and 2009. The ACSC repealed partially the refusal, assuming that the Chief Secretary of the President should disclose the names of the members of the Pardons Committee, while information about the names of the pardoned persons should be provided but without identification data about those persons.

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<sup>12</sup>Decision No. 3317 as of July 5, 2011 of the ACSC, Second division, 22<sup>nd</sup> panel, adm. case No. 3009/2011.

<sup>13</sup>Decision No. 1767 as of April 14, 2011 of the ACSC, Second division, 31<sup>st</sup> panel, adm. case No. 9104/2009.

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With a decision as of April 21, 2011<sup>14</sup> the ACSC repealed the refusal of the Ministry of Justice (MoJ) to provide information about the names and the positions of the members of the Ministry of Justice Committee which evaluated the projects submitted by non-profit legal entities applying for funding from the 2010 state budget. The court signified that the requested information could not be defined as personal data since the disclosure of the official position of the persons did not contain identification data about their personal lives.

With a decision as of June 13, 2011<sup>15</sup> the ACSC repealed the refusal of the Chief Secretary of the President to provide the list of persons invited to three official receptions held by the President. More precisely, he demanded access to the guests list for Christmas (December 2009), for the National Holiday of Bulgaria (March 3, 2010), and for the Day of Bulgarian Education and Culture (May 24, 2010). In response, the Chief Secretary of the President granted access to information only about the persons holding high government positions and refused to disclose information about the others, arguing that their names were subject to protection under the Personal Data Protection Act. The refusal was challenged before the Administrative Court – Sofia City with the support of AIP. The court repealed the refusal, assuming that the President's Office should have also provide to the journalist the list of those guests who did not hold high government positions, as well as information about the capacity in which they were invited. The court panel emphasized that the receptions held by the President were covered by all media which resulted in maximum transparency and respectively there is an overriding public interest in the disclosure of the information.

With a decision as of October 23, 2011<sup>16</sup> the ASCS repealed the refusal of the Secretary of the Ministry of Labor and Social Policy to provide information whether bonuses were allocated to political experts and civil servants within the Ministry. The Secretary refused access on the ground of personal data protection and the lack of consent of third affected parties. The courts stressed on the fact that the requestor did not seek information on bonuses by name, but rather general information whether extra remuneration has been allocated and if positive, on what basis and principles.

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<sup>14</sup>Decision No. 1902 as of April 21, 2011 of the ACSC, First division, 16<sup>th</sup> panel, adm. case No. 6954/2010.

<sup>15</sup>Decision No. 2882 as of July 13, 2011 of the ACSC, Second division, 30<sup>th</sup> panel, adm. case No. 144/2011.

<sup>16</sup>Decision No. 5317 as of November 23, 2011 of the ACSC, Second division, 28<sup>th</sup> panel, case No. 6487/2011.

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According to the court this is public information as it enables the citizen to form his opinion on how this authority works and how encourages its employees and on what criteria.

With a decisions as of November 24, 2011<sup>17</sup> the ASCS repealed the refusal of the Ministry of Finance to provide information on the allocation of state subsidy of independent MPs. In summer 2011, a public debate was held in the media about the transparency of political parties' financing from the state budget. The Political Parties Act provides that the state attributes subsidies to the parliamentary represented parties on the basis of their seats in the Parliament. The sum attributed to each MP is defined by order of the Minister of Finance. Therefore, the question was to which parties the 17 independent MPs sent their attributed subsidy. Three different media journalists – one TV (Victoria Petrova from bTV), another from a radio station (Iliia Valkov from Darik Radio) and the other from a print media (Pavlina Zhivkova from Banker weekly) filed similar requests for access to copies of the MPs declarations. The Ministry of Finance rejected on the ground of personal data protection. The denials were appealed on the grounds that the data shall not be regarded as personal; moreover there is an overriding public interest in the disclosure. In its reasoning the court emphasize on the fact that the declarations in question produced in the course of the proceedings do not contain personal data. The Justices point out that the membership in political party is not a personal matter. Moreover the MPs themselves are obliged to provide information pursuant to the APIA, therefore their consent for the disclosure is not required.

### **Access to reports**

In several cases during the last few months the court repealed refusals of access to audit reports and reports upon inspections. The authorities tried to advance the argument that the reports were exempted as preparatory documents under Art. 13, para. 2, item 1 of the APIA. The Justices allied over the view that access the reports cannot be denied on this ground. They agreed that the reports contain opinions and recommendation, but they also contain establishment of facts and specific findings which have significance on their own. The courts took the view that the reports are

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<sup>17</sup>Decision No. 5343 as of November 24, 2011 of the ACSC, First division, 5<sup>th</sup> panel, adm. case No 7543/2011.

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the final act of inspections as they do not depend on the adoption of subsequent act and reflect the factual situation at the moment of the inspection.

With a decisions as of December 10, 2010<sup>18</sup> the SAC repealed the refusal of the MoJ to provide access to the reports upon inspections of prisons. The information was requested by the In June 2009, the Bulgarian Helsinki Committee requested the reports of the Inspectorate within the Ministry of Justice (MoJ) on the inspections of prisons which took place in 2007 and 2008. The BHC was particularly interested what was established in the reports about the living conditions in prisons, the state of medical care in prisons, and the work conditions of inmates. The refusal was grounded on Art. 13, para. 2, item 1. The MoJ argues that the reports have no independent significance and serve for the adoption of final act by the Minister. The court held that the reports contained not only recommendations to the Minister of Justice, but also findings of facts made during the inspections. According to the court, these findings have an independent significance because they reflect the current situations in the places of deprivation of liberty at the time of the inspection. This situation does not depend on the opinions and the recommendations of the supervisors and cannot be changed by subsequent acts. The Court also stressed on the fact that the MoJ never presented the final act adopted on the basis of the reports. According to the Court, the restriction under Art. 13 of the APIA aims to restrict access to official information only in cases where it is connected to the preparation of an act and the public can access the final act itself. On the contrary, when final act, incorporating this internal information has never been adopted, access to it could not be denied on the ground of Art. 13, because it would be absolutely impossible for the public to access the information.

With a decision as of December 2, 2010<sup>19</sup> the ASCS repealed the refusal of the Prosecution Office to provide access to the report on the state of the Sofia Regional Prosecutor's Office and the acts and omissions to act of a regional prosecutor. In its decision, the court held that the report is the final act of supervisions and audits of the prosecutors under Art. 142, Para. 2 of the Judiciary Act. For this very reason, it cannot be assumed that this act had no significance in itself and only had a character

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<sup>18</sup>Decision No. 15158 as of December 10, 2010 of the SAC, Fifth division, adm. case No. 3051/2010.

<sup>19</sup>Decision No. 3959 as of December 2, 2010 of the ACSC, First division, 13th panel, adm. case No. 3617/2010.

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of opinion or recommendation. It is noteworthy to mention that the court decision reproduces many of the findings and recommendations of the supervising prosecutors. They establish number of violations and inefficient organization of the work in the Sofia Regional Prosecution Office.

With a decision as of March 22, 2011<sup>20</sup> the ACSC repealed the refusal of the Social Assistance Agency (SAA) to provide access to the report on the activities of social workers in the best interest of children in some specific cases. The Chairperson of the SAA refused access on the ground that the information related to the adoption of subsequent act and had no significance in itself (Art. 13, para. 2, item 1 of the APIA). The court ruled that the establishment of facts in the report does not fall under the protection of Art. 13, para. 2, item 1 of the APIA. According to the court even if the report relates to the preparation of subsequent acts it has an independent significance as it reflects the current situations of the protection of children at the time of the inspection.

With a decision as of October 3, 2011<sup>21</sup> Administrative court – Plovdiv repealed the decision of the Chief Secretary of Plovdiv municipality. The citizen Konstantin Bobocov requested copy of the report under the improvement of air quality programme in Plovdiv. The decision stated that the citizen is granted full access to the information. However, instead of the information sought, the citizen accessed the response that this information is under preparation. In order to get this notice the citizen was charged 0.14 BGN. The court ruled that the decision challenged is unlawful. The court pointed out that at the time of the request and at the time of the issuing the decision granting access the information sought did not objectively exist, therefore there were no grounds to issue a decision granting access to the information. According to the court the municipality administration should have applied Art. 33, para. 1 of the APIA, according to which the municipality should have informed the requestor that it does not hold the information. The court stresses on the fact that the challenged decision is contra the spirit and the purposes of the APIA: "there is obvious improper treatment of the requestor's right to information by the obliged authority. There is no controversy that the citizen was not given access to the requested information. His right was not exercised, moreover his entitlement to

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<sup>20</sup>Decision No. 1348 as of March 22, 2011 of the ACSC, First division, 18<sup>th</sup> panel, adm. case No. 7863/2010.

<sup>21</sup>Decision No. 1500 as of October 3, 2011 of Administrative court – Plovdiv, adm. case No. 989/2011.

## **ACCESS TO INFORMATION PROGRAMME ANNUAL REPORT 2011**

receive an adequate answer, consistent with the facts and the law was not respected by the administration.

### **Silent refusals**

The case-law regarding repealing of silent refusals remains extremely stable during 2011 as well. The courts systematically rule that the silent refusals are unlawful and that the only consistent with the APIA way to proceed with access to information requests is to issue an explicit decision granting or refusing access.

With a decision as of December 7, 2010<sup>22</sup> the SAC uphold the decision of the first instance repealing the silent refusal of the Sofia municipality. The Environmental Association For the Earth requested a copy of the contract for Prefeasibility Study and accompanying documents for the project Waste Management of Sofia Municipality financed by EU funds.

With a decision as of January 20, 2011<sup>23</sup> the ACSC repealed the silent refusal of the Sofia municipality. The information sought related to the municipality investment programme for expropriation. The interest was provoked by the costs incurred by the municipality for the acquisition of private property for the reconstruction of “Lomsko shausse” boulevard.

With a decision as of January 27, 2011<sup>24</sup> Administrative court – Varna repealed the silent refusal of the Regional Directorate of the National Revenue Agency. The information sought related to the amount of public revenue of the local judiciary. The court emphasized that the principles of good administration in a democratic society require the public authorities to respect their obligation under the APIA.

With a decision as of February 14, 2011<sup>25</sup> Administrative court – Varna repealed the silent refusal of the Mayor. The request was filed electronically and the information sought related to the construction of buildings in Varna. The court found that the municipality has adopted internal rules according to which an electronic request is

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<sup>22</sup>Decision No. 14896 as of December 7, 2010 of the SAC, Fifth division, adm. case No. 11136/2009.

<sup>23</sup>Decision No. 301 as of January 20, 2010 of the ACSC, Second division, 27<sup>th</sup> panel, adm. case No. 8149/2010.

<sup>24</sup>Decision No. 157 as of January 27, 2011 of Administrative court-Varna, adm. case No. 3250/2010.

<sup>25</sup>Decision as of February 14, 2011 of Administrative court-Varna, adm. case No. 3831/2010.

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considered to be submitted in writing, therefore, the municipality has the obligation to proceed with it and to issue an explicit decision.

With a decision as of February 21, 2011<sup>26</sup> Administrative court Pazardjik repealed the silent refusal of the Mayor to provide access to contracts between the municipality and private companies for the supply of goods and/or services for the period 2007-2010. The requestor only asked for the names of the co-contactors and the price of the contract.

With a decision as of May 9, 2011<sup>27</sup> the ACSC repealed the silent refusal of the National Veterinary Service (NVS) to provide access to information about an inspection carried out by the NVS authorities in a dog shelter in the town of Pleven, managed by an Association for the Protection of Animals – Pleven 2008.

With a decision as of December 12, 2011<sup>28</sup> the ACSC repealed the silent refusal of the National Centre for Information and Documentation to provide access to information relating to the qualifications and diploma of the former Executive Director of State Fund “Agriculture” Kalina Ilieva.

### **Execution of Court Decisions**

In compliance with a decision of the Administrative Court – Sofia City as of May 9, 2011, the Bulgarian Food Safety Agency (BFSA) provided access to information requested by Ms. Vania Hristova from the former National Veterinary Service (NVS). With a request filed in the beginning of 2011, she requested information about an inspection carried out by the NVS authorities in a dog shelter in the town of Pleven, managed by an Association for the Protection of Animals – Pleven 2008. More precisely, Hristova demanded the protocol from the inspection, the directions given on the base of that inspection and an order for stopping the activity of the shelter. The subsequent silent refusal was challenged in court. In the meantime, the NVS was closed and the BFSA was constituted as a party of the litigation being a successor of the NVS. The Administrative Court – Sofia City repealed the silent

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<sup>26</sup>Decision No. 86 as of February 21, 2011 of Administrative court-Pazardjik, adm. case No. 62/2011.

<sup>27</sup>Decision No. 2191 as of May 9, 2011 of the ACSC, First division, 4<sup>th</sup> panel, adm. case No. 2109/2011.

<sup>28</sup>Decision No.5654 as of December 12,2011 of the ACSC, Second division, 24<sup>th</sup> panel, adm. case No.292/2011.

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refusal with a decision as of May 2011, and returned the request to the BFSA for delivery of a decision. Right after the court decision, the Agency granted access to all of the requested information.

In execution of a Supreme Administrative Court decision<sup>29</sup> the Sofia Municipal Council (SMC) provided access to the information requested by the appellant Ivan Petrov. The information was disclosed exactly 4 years after the filing of the request to the Chairperson of the SMC. Ivan Petrov requested information about all official leaves made by the Chairperson of the SMC during the period 2003 – 2007 – by date and duration; as well as about all official trips in the country and abroad made by the Chairperson of the SMC during the same period – by date, places of visit, purpose of visit, duration and amount of expenses made. The initial proceedings were started against a silent refusal which was repealed by both instances of the court and the case was returned to the SMC for delivering a decision on the request.

In compliance with the court decisions, the Chairperson of the SMC indeed delivered an explicit refusal on the ground that information about the chairperson's official trips did not constitute public information under the meaning of Art. 2, Para. 1 of the APIA. With regard to the information about the official trips, the response only stated that no orders for the Chairperson's official trips were issued. This refusal was again appealed and reviewed by two court instances. The final SAC decision as of June 20, 2011 upheld the repealing of the refusal and obligated the SMC to provide the requested information. As a result, the Sofia Municipal Council provided the requested information with a decision as of July 14, 2011.

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

In 2011, the raising awareness campaign on the right of access to information and its exemptions, and the protection personal data, was ran by the organization and holding of two already traditional for AIP ceremonies, the presentation of the Annual

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<sup>29</sup>Decision No. 8791 as of July 20, 2011 of the SAC, Fifth division, adm. case No. 8896/2010.

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Report on access to information in Bulgaria and the participation in national and international conferences.

### The Big Brother Anti-Awards Ceremony

<http://www.aip-bg.org/en/privacy/2011/201174/>



Access to Information Programme (AIP) and Internet Society Bulgaria held the Big Brother Anti-awards ceremony in Bulgaria on February 16, 2011, 11.00, at the National Presscenter of the Bulgarian News Agency. The organization of the ceremony in its essence is public campaign on the right to privacy and the

protection of personal data. The Big Brother Award was founded by [Privacy International](#) – a human rights group working for the protection of privacy.

In 2011, the jury decided the two awardees to be:

1. A joint anti-award for the National Assembly and the Ministry of Interior in the category for state institution which had done most to violate the right of privacy as they have created and sustained preconditions for systematical violation of the right to privacy and personal data protection, more precisely:

- For lacking relevant regulation to guarantee citizens' rights when special surveillance means are used;
- For the lack of efficient control over the use of the special surveillance means.

2. A joint anti-award for the three working mobile operators in Bulgaria (Mtel, Globul, and Vivacom) in the category for a private company which had done most to violate the right of privacy as they systematically violate the right of privacy by:

- Transferring customers' personal data bases without the knowledge of the customers;
- Maintaining outdated registers of customers' personal data;
- Extensively and unproportionally collecting customers' personal data.

**Organization and Holding of the International Right to Know Day Ceremony – September 28**



*AIP held the 9th Right to Know Day Awards Ceremony in Bulgaria on 28 September 2011 in the Bulgarian News Agency, Sofia. The event was opened with the [song “Breathe.”](#), dedicated to the Right to Know Day. The event was broadcast live on Internet. More than hundred people attended the ceremony.*

The 2011 Right to Know Day awards committee selected the winners in the [six categories](#) for the Awards out of 59 nominations. More at: [http://www.righttoknowday.net/ceremony11\\_eng.php](http://www.righttoknowday.net/ceremony11_eng.php)

**International “Access to Information Litigation in Bulgaria” Conference**

On April 15, 2011 in Sofia, AIP held the conference dedicated to the access to information litigation experience accumulated in Bulgaria during 2009-2010. Among the 100 participants were the Ombudsman of Bulgaria, Mr. Konstantin Penchev and the Chairperson of the Administrative Court Sofia City, Mr. Lozan Panov; the director of Statewatch, Tony Bunyan, the director of the Armenian Freedom of Information Center, Shushan Doydoyan, lawyers, judges from administrative courts, representatives of NGOs, media, experts from Armenia, Hungary, Rumania, Slovakia.

In 2011, AIP did not organize access to information trainings. However, AIP representatives took part as lecturers in conferences, seminars, and trainings, organized by partner organizations in Bulgaria and abroad. The total number of the attendees of those presentations is 568.

AIP experience was shared at conferences in Macedonia, Montenegro, Georgia, Poland, Ukraine, Slovakia. Alexander Kashumov, Head of AIP legal team, and Gergana Jouleva, AIP Executive Director, were invited as experts of the Organization for Security and Cooperation in Europe and the Council of Europe.

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

During the year 2011, representatives of AIP team and AIP network of journalists actively participated in the debate for the right of access to information and its restrictions. This debate was covered by TV broadcasts, Monthly Electronic Newsletter and Access Point blog.

The total number of publications in 2011 is 390. Out of these 301 are in national media, 84 are in local media and 5 in foreign media. The most numerous are publications regarding personal data – 85, followed by the publications about Right to Know Day – 64. The other important issues covered by the media are AIP litigations (46 publications) and the annual report Access to Information in Bulgaria 2010 (44 publications).

The number of articles published in the Monthly Electronic Newsletter in 2011 is 110 (<http://www.aip-bg.org/publications/Бюлетин/>) under the following headings:

- **News from the Court room** – 36 court cases in which AIP legal team has provided assistance were covered by 10 issues of the Newsletter
- **News from the World** - 69 news related to developments in the access to information area were covered by 10 issues.
- **From the Coordinators' Network** (from AIP coordinators in the country) - 33 publications under different headings.
- **Interviews** – 11

In year 2011, AIP sent to the Bulgarian NGO Informarmation Portal (<http://www.ngobg.info/>) messages regarding the International Right to Know Day and 15 Years Anniversary of AIP.

**Access to Information Programme Publications in 2011**



**Access to Information in Bulgaria 2010**

In 2011, AIP published and disseminated the annual report Access to Information in Bulgaria 2010 (1000 copies in Bulgarian were disseminated to public bodies, MPs, NGOs and media). The English translation was disseminated to all partner organizations via the International Freedom of Information Advocates Network and is accessible online:

*Access to Information in Bulgaria 2010, Access to Information Programme, 2011, 106 pages.*

ISSN 1314-0515 (online)

ISSN 1313-065X (print)

[http://store.aip-bg.org/publications/ann\\_rep\\_eng/2010.pdf](http://store.aip-bg.org/publications/ann_rep_eng/2010.pdf)

*In 2011 again, the recommendations in the annual report brought to changes in the access to information policies. In 2011, the Order of the Minister of Finance which determined the fees for the provision of access to information was amended. The new Order of the Minister of Finance<sup>30</sup> reflect the AIP recommendations to update and lower the charges stated several times in our annual reports on the access to information in Bulgaria.*

**Internet Sites of AIP**

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

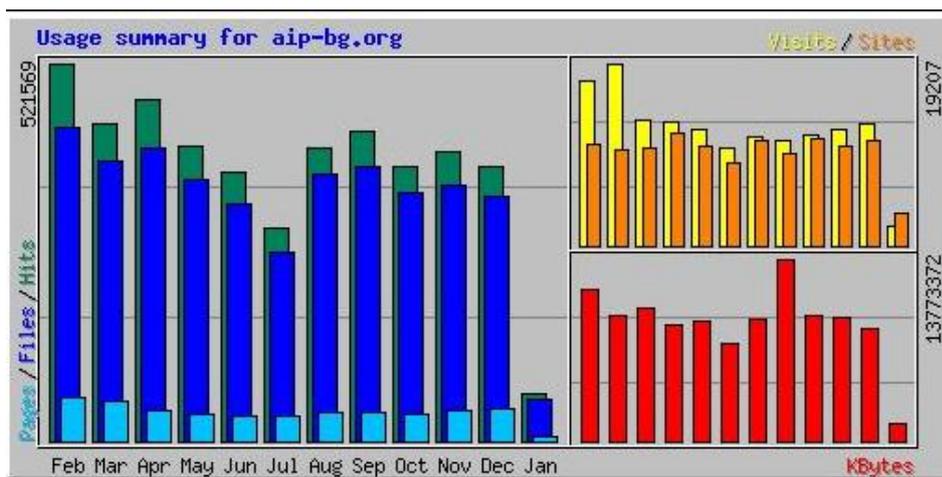
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<sup>30</sup> [Order No.1472 of the Ministry of Finance from November 29, 2011 for determining the fees for disclosure of public information](#) under the Access to Public Information Act, promulgated in State Gazette, issue 89 from December 13, 2011

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On January 25 2011, AIP launched its updated web site in Bulgarian. The structure and design of the web site not only allow for easier navigation among the rich content of the information and training materials, but also for integration of audit and survey results.

The traffic statistics for the 2011 shows that the number of visits to [www.aip-bg.org](http://www.aip-bg.org) is: 161,820 (average of 13,485 visits per month). Larger number of visits is registered during months in which AIP ran special campaigns – January and February (related to the nominations and the ceremony for the Big Brother Anti-awards); April – presentation of the results from the institutional web sites survey. Out of the visits from foreign servers (average of 11 % of all), the largest number comes from the USA, the Czech Republic, UK, the Russian Federation, India, Belgium, Turkey, Germany, Rumania. There are also visits from Armenia, Hong Kong and Brazil.

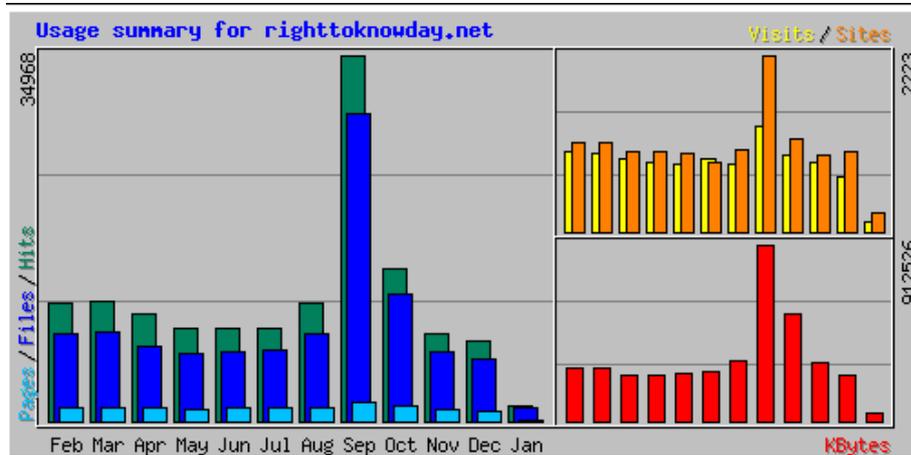


Statistics for [www.aip-bg.org](http://www.aip-bg.org) (February 2011 – January 2012)

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### International Right to Know Day

AIP maintains and updates the special web site for the International Right to Know Day – September 28. The peak in the visits of this web site is September – 1,324 visits, with an average for the year 932: <http://www.righttoknowday.net/>

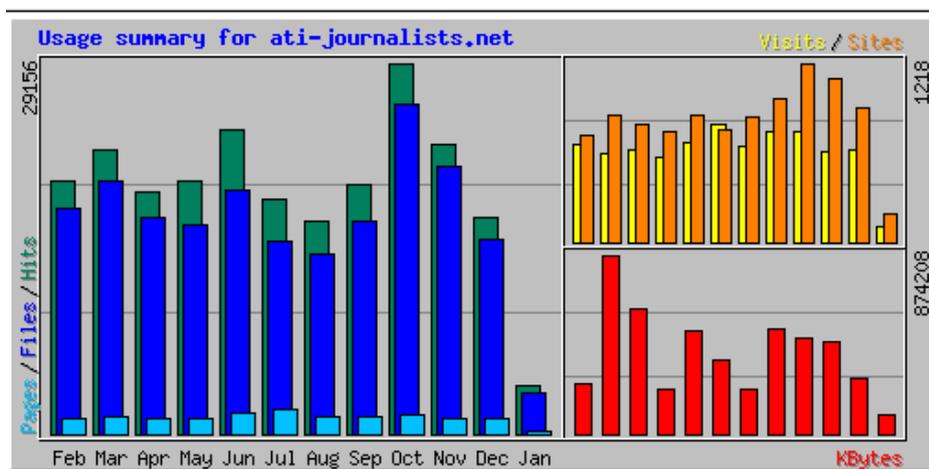


Statistics for the [www.righttoknow.net](http://www.righttoknow.net) (February 2011 – January 2012)

### Access to Information and Journalistic Investigations

AIP also maintains the special web site Access to Information and Journalistic Investigations. The web site contains legislation, journalistic cases and litigation, journalistic investigations, information and training materials, documentaries and short videos. The average number of visits for 2011 is 621:

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



Statistics of the <http://www.ati-journalists.net/> (February 2011 – January 2012)

**Access Point blog**

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

The blog Access Point is additional channel for increasing the efficiency of AIP permanent campaign for the improvement of access to information in Bulgaria. 27 posts have been made and 5 comments followed. In 2011, AIP posted 23 items followed by 10 comments by users. In February 2012, AIP blog was redesigned and its connectivity with the web site was updated.

**Web Portal Public Registers**

[www.publicregisters.info](http://www.publicregisters.info).

On November 30, 2011, AIP launched the web portal *Public Registers*, which contains the results from a survey on the public registers in Bulgaria. It also incorporates the results from the review of the content and the format of the online available public registers. On January 4, 2012, AIP announced the launch of the register via its Monthly Information Newsletter. 101 unique visitors were registered by the statistics of the new portal.

**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. 275 people like it. Visits per month vary from 50 to 90. Several albums were uploaded.

**6. Cooperation on national, regional and international level**

With regard to the Open Government Partnership (OGP) initiative within the United Nations, AIP contributed to the joining of Bulgaria to the participating countries.

Before the OGP meeting in Washington on July 15, 2011, AIP Executive Director Gergana Jouleva had a meeting with the Head of the Political Cabinet of the Government, Rumiana Bachvarova, to present the results from the 2011 audit on active transparency of the public bodies within the system of the executive power,

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their analysis published in the annual report *Access to Information in Bulgaria 2010* and AIP recommendations in this regard.

Issues related to the government position with regard to the OGP initiative were discussed at two following meetings between Rumiana Bachvarova and Gergana Jouleva on August 17 and October 25, 2011.

AIP Executive Director Gergana Jouleva expressed AIP readiness to take part in the discussion of the documents drafted by the Council for Development at the Council of Ministers whose secretary is Rumiana Bachvarova.

In 2011 again, the team of AIP took part in the working group at the State Commission on Information Security on issues related to the definition of categories of information subject to classification as *official secret*.

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

AIP Executive Director Gergana Jouleva and the Head of legal team Alexander Kashumov, took part in the meeting of the European Ombudsman P. Nikiforos Diamandouros with leading Bulgarian NGOs at the invitation of the Bulgarian Ombudsman, Konstantin Penchev.

AIP continued to actively support initiatives of partner nongovernmental organizations in the country by taking part in their initiatives providing legal and expert help, presenting developments on access to information issues:

On January 28, 2011, AIP Executive Director Gergana Jouleva took part as a lecturer in the training of young politicians within the National program "Governing Skills" of the Bulgarian School of Politics. On July 2, 2011, Gergana Jouleva took part in a second meeting of the Steering Committee of the Bulgarian School of Politics with directors of leading think tank organizations to discuss future strategies of the BSP.

Alexander Kashumov, Head of AIP legal team, took part in several initiatives of the Union of Bulgarian Journalists and the Friedrich Ebert Foundation, the Association of

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European Journalists – Bulgaria, Konrad Adenauer Foundation and Media Democracy Foundation on access to information and journalistic investigations.

Kiril Terziiski lectured at the conference *Civil Participation – Formulation and Control of Policies*, organized by Civil Association Harmonia on May 31, 2011 in Sofia.

Fany Davidova, lawyer at AIP legal team, took part in a Press Conference on *The Crimes in Childcare Institutions – 8 Months Later*, held by the Bulgarian Helsinki Committee.

On June 14, 2011, AIP Executive Director Gergana Jouleva and the Head of legal team Alexander Kashumov presented AIP experience before a delegation of the Iraqi media non-profit organization Al-Mirat at the invitation of the Bulgarian Ministry of Foreign Affairs.

On July 6, 2011, AIP Executive Director, Gergana Jouleva, presented AIP experience to human rights activists from Azerbaijan visiting AIP office at the initiative of the Center for the Protection of Patient's Rights.

AIP supported the *Society of Electronic Communications* by joining their statement on the proposed amendments to the Gambling Law with regard to the filtering of Internet sites in Bulgaria. AIP representatives took part in the press conference held on December 2, 2011.

The total number of AIP experts' participation in the initiatives of other organizations are 57.

### **International Freedom of Information Advocates Network**

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

In 2011, AIP continued its active participation in discussions (15) on various topics in the Freedom of Information Advocates Network (FOIANet). *Access Info Europe* initiated a debate on transparency in financing of political parties. The outcome of the discussion contributed to a campaign to include political parties as obliged bodies under the Spanish Access to Information Act. The question whether the unique identification number shall be protected as personal data was raised by the *MANS*,

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organization from Montenegro. The problem emerged on the occasion of debating amendments to the Trade Companies Register Act. AIP shared its experience and advocacy work during the campaign against dubious amendments of the Bulgarian Trade Register Act (*see supra*). Among the other important questions debated in 2011 was the proactive publication of information. Gergana Jouleva, AIP Executive Director shared our practice for online publication with the members of the FOIANet. The Bulgarian experience is an important tool in the campaign for implementing an e-government in Georgia. Another hot topic for the FOI advocates was the classification of information. Alexander Kashumov, Head of AIP Legal team analyzed this exemption. The analysis will be published in a comparative legal study systematized by Toby Mendel (Centre for Law and Democracy). Success journalist FOI stories were shared. AIP presented the cases of journalists supported by legal advice and representation. The special site dedicated to journalists using the APIA (<http://www.ati-journalists.net/>) was again brought to the attention of the FOIANet members.

AIP contributed to a comparative study, written by the drafter of the Czech Access to Information Act - Oldřich Kužilek. The comparative analysis was commissioned by the Ministry of Interior on the occasion of adoption of amendments. It will be presented at public discussions in the Czech Republic.

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

### **International cooperation**

In July 2011 Right2info.org updated its website and country specific information. It created a new section "[Information about Elections, Political Parties and Candidates](#)". Thanks to AIP the new requirements for publication of financial information on campaigns established by the new Electoral code.

In December 2011 two organizations - [Reprive](#) and [Access Info Europe](#) published a [report](#) on the illegal transfer of prisoners by CIA within EU countries. The information was collected through information requests filed in 28 countries. AIP assisted the organization for filing the request within the proper authority in Bulgaria and this was acknowledged.

## **7. Institutional achievements and development**

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

### **Board**

Dimitar Totev – Chairperson

Gergana Jouleva, PhD– Executive Director

Luba Rizova

Mariana Milosheva-Krushe

Pavlina Petrova

Petko Georgiev

Svetlozar Zhelev

Yordanka Gancheva

In 2011, the Board of AIP held two session.

**On March 15, 2011**, in Sofia, in the office of AIP (76 Vasil Levski BLvd, floor 3, apt. 3), was held a regular session of the Board in compliance with Art. 12, Para. 8 of the Bylaws, called by the AIP Executive Director Gergana Jouleva. The Board adopted the Annual report of AIP for 2010 presented by the Executive Director Gergana Jouleva; accepted the budget and the main activities for 2011.

**On December 16, 2011**, in Sofia, in the office of AIP (76 Vasil Levski BLvd, floor 3, apt. 3), was held a regular session of the Board in compliance with Art. 12, Para. 8 of the Bylaws, called by the AIP Executive Director Gergana Jouleva. The Board discussed main directions in the work of AIP for 2012, reviewed and adopted the draft-budget for 2012.

### **Team**

The team which has achieved all this is:

Gergana Jouleva, PhD, Executive Director

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

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Darina Palova, attorney-at-law

Kiril Terziiski, attorney-at-law

Fany Davidova, lawyer

Tereza Mandjukova, lawyer

Diana Bancheva, communication coordinator

Nikolay Ninov – coordinator of the countrywide network of journalists

Ralitza Katzarska, coordinator

Stephan Angelov – legal intern

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

### **The Coordinators' Network**

On March 18, 2011, AIP held its annual meeting with the coordinators from the journalistic network in the country in Hotel *Rila*, Sofia. The annual activities report of AIP for 2010 had been sent out to the coordinators in advance in preparation of its discussion. AIP Executive Director, Gergana Jouleva, presented the key achievements of AIP for 2010, and outlined the goals of AIP and its coordinators' network for 2011.

Alexander Kashumov, Head of AIP legal team, presented the results of AIP campaigns with regard to proposed amendments to the Trade Registers Act, the Special Surveillance Means Act, and the Electronic Communications Act. Darina Palova and Fany Davidova, both from AIP legal team, outlined the characteristics of the cases referred to AIP for legal help during 2010. Kiril Terziiski, attorney-at-law in AIP legal team, made a review of the most important developments of the Access to Public Information Act. Diana Bancheva, AIP communication officer, presented the new design and functionality of AIP web site updated within the project [Responding to the New Demand for Freedom of Information](#), supported by the [America For Bulgaria Foundation](#).

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

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In 2011 again, AIP coordinators, all of them journalists, were active in publishing in AIP monthly FOI newsletter, and in local media in which they covered the annual report *Access to Information in Bulgaria in 2010*, the International Right to Know Day campaign, AIP conference *Access to Information Litigation in Bulgaria*.

AIP coordinators have prepared 94 articles during 2011. Out of those, 33 were for AIP monthly FOI newsletter. The most active authors for the newsletter were Diana Boncheva, AIP coordinator in Yambol, and Iliana Ivanova, AIP coordinator in Pernik with 4 articles each, and Galina Konstantinova, AIP coordinator in Plovdiv – with 3 articles. The other texts were published in local media, the most active being Iva Antonova (coordinator in Vratsa) with 18 publications, Tsvetan Todorov (coordinator in Lovech) with 10, Yordan Georgiev (coordinator in Silistra) – 6, and Ivanka Lambeva (coordinator in Kardzhali) – 5.

In 2011, AIP coordinators collected and sent nominations for the Right to Know Day Awards, disseminated leaflets, posters; covered the Awards Ceremony held in the National News Agency in Sofia for local media, took part in polls and round tables on the freedom of expression and access to information, in the marking of the Protection of Personal Data Day, in referring information seekers who requested help to AIP.

Active in the filing of access to information requests and challenging refusals in the court with the help of AIP legal team was Diana Boncheva, coordinator in Yambol.

AIP coordinators referred 28 cases of information refusals in 2011. The highest number came from the region of Veliko Tarnovo (coordinator Svetoslav Stephanov) – 8, from Smolyan (coordinator Valentin Hadzhiiski) and Vidin (coordinator Penka Milusheva) with 4 cases each.

The coordinators in Haskovo and Vidin had to be changed as the previous ones moved to live in other towns. Since October 2011, AIP coordinator in Haskovo is Bozhidar Sabev, correspondent of *Trud* daily. Since November 2011, AIP coordinator in Vidin is Penka Milusheva, editor in the Bulgarian National Radio – Vidin.

### **Development of the Internal Information Management System**

Since the beginning of 2010, AIP started using an Internal Information Management System (IMS) which was integrated by Svetlozar Online company. The IMS contains the following categories: Contacts, Library, Surveys, Cases, Litigation,

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Administration, Web. The development of the IMS is part of AIP strategy to exploit to a bigger extent information technologies to provide services like: legal help, self-education materials; the blog of the organization, etc.

In 2011, the modules *Public Registers* and *Audit on Institutional Web sites 2012* were incorporated in the IMS.

### **Projects**

During 2011, AIP has implemented the following projects:



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

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

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

#### **Main project activities:**

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

**Expected results:**

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

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



**Support to Access to Information  
Program as a Freedom of Information  
Civic Resource Center (FOICRC)**

**Period:** *May 1, 2008 – April 30, 2011*

**Description:** The project goal is to guarantee institutional support to AIP for its further establishment as a resource center which works for improving the accountability of public institutions in Bulgaria and to encourage informed public participation in the decision-making process.

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### **Activities:**

- Advocate for better FOI legislation on the basis of permanent monitoring of the secondary and connected legislation and practices and submit comments and recommendations in its annual reports;
- Provide legal assistance in cases when requesters seek information from public institutions; including representation in courts;
- Organize trainings, presentations, and campaigns to raise public awareness on access to information issues (FOI monthly newsletter and publications around the country, Right to Know Day Ceremony);
- Exchange experience and knowledge in the FOI area through cooperation on local, regional and global level including active participation in FOIANet (<http://www.foiadvocates.net/>).
- Development of fundraising strategies and organizational sustainability.
- Maintain its countrywide network of coordinators in all regional cities in Bulgaria to monitor the practices;

### **Expected results:**

- Bulgarian FOI legislation brought in compliance with international FOI standards – especially in terms of exemptions and active provision of information, including online;
- Decreased number of information refusals registered in the Minister of State Administration and Administrative Reform annual report;
- Increased accountability and transparency of the public institutions;
- Increased public awareness on the right of information for good governance;
- New skills among NGOs and journalists on how to use their right of access to information in their work;
- More active exercise of the right of access to information by citizens, journalists and NGOs;
- Increased number of legal consultations provided by AIP legal team to information seekers;
- Increased capacity of team of AIP and coordinators.

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



Trust for Civil Society  
in Central and Eastern Europe

**Civil Audit of Active Transparency of  
Government (CAATOG)**

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

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

**Main activities:**

- Special survey with regard to public registers and launch of an online interactive handbook;
- Trainings of journalists on how to use public registers and on institutional obligations for active publication;
- Audit on institutional web sites with regard to obligations for active disclosure of public information on the base of developed criteria and indicators and analysis of the result;
- Systematization and analysis of advocacy work of AIP for improving the situation of access to information – annual report Access to Information in Bulgaria;
- Organization and holding a Monitoring Conference to share experience with FOI Advocates Network organizations.

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



AMERICA FOR BULGARIA  
FOUNDATION  
Фондация Америка за България

**Responding to the New Demand for Freedom of Information**

**Period:** April 8, 2010 – April 8, 2013

**Project Goals:**

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

**Activities:**

1. Development and integration of a new design and structure of AIP web site.
2. Monitoring and comment on access to information legislation and practice; initiation of debates on problematic issues through the enhanced web-resources.
3. Proactive legal help provided electronically.
4. Dissemination and exchange of knowledge about FOI rights in local and international networks.

**Donor of the Project:** America for Bulgaria Foundation

**Coordination and Oversight**

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

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

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

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

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### **AIP was acknowledged for its activities and achievements with two Awards in 2011**



#### **AIP recognized for contribution to the development of civil society in Bulgaria**

On March 31, 2011, at a ceremony in Studio 5 – Sofia, Access to Information Programme was recognized with a Vidko award for contribution to the development of civil society on Bulgaria. The awards are presented by the Civil Association Vidovden and the Civil

Movement DNES. The co-chairpersons of Vidovden Ms.Anjelika Tsokova and Mr. Vasil Filipov presented the awards in four categories: Person Involved in Public Matters, Model Citizen, Non-governmental Organization, and Work in Public Interest.



#### **Access to Information Programme was recognized with the 2011 Human of the Year Special Award**

Access to Information Programme was recognized with a special award for outstanding contribution to the protection and strengthening of human rights in Bulgaria on 9th December

2011, in the eve of the International Human Rights Day. The annual awards for contribution to human rights are given by the Bulgarian Helsinki Committee to recognize and celebrate human rights activism since 2008.

27.01.2012

Gergana Jouleva

Sofia

Executive Director of AIP