

## **Key achievements of Access to Information Programme(AIP) during the period January 2003 – December 2003 (Programmatic and organizational)**

Following its mission – to promote the exercising of the right to information envisaged in Art. 41 of the Bulgarian Constitution – AIPF 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 open supply of information

In 2003 AIPF is working in several directions to realize these long-term objectives:

1. Monitoring the regulation of the access to information and the newly developed practices established by applying the law and independent civic control.
2. Education on the Access to Public Information Act (APIA)
3. Legal assistance
4. Participation in the public debate on access to information issues and the right to freedom of expression and conducting a permanent media campaign
5. Cooperation on the Regional and Global Level

**The main achievements in the above-mentioned directions are:**

- 1. Monitoring the regulation of the access to information and the newly developed practices established by applying the law and independent civic control**

The monitoring of the practices of APIA implementation is carried out through:

- Systematizing the monthly reports of AIP coordinators on APIA implementation practices
- Systematization of provided legal assistance in cases of information refusals referred to the office of AIP in our electronic database - 657 cases for 2003
- Annual report of AIP “The Current Situation of the Access to Information Situation in Bulgaria 2002”, summarizing and analyzing the results from monitoring of the practices of the freedom of information legislation, the results from monitoring of the implementation of this legislation, and the fulfillment of the obligations under APIA by the obliged bodies. The report also includes recommendations to the bodies of the executive and legislative power for improving the access to information situation. AIP has published, disseminated and presented before the media and the public *Annual report on the Situation of Access to Information Situation in*

*Bulgaria* (in the beginning of 2003). In these report AIPF has made several specific recommendations, which were reflected in several freedom of information policies:

- The motives for the proposed Amendments to APIA presented to Parliament in 2002 and passed at first hearing in 2003
  - More concrete information about APIA implementation was included in the Annual report of Minister of State Administration “The Report of the State of the Administration” (April 2003)
  - Many institutions have adopted Internal Rules for APIA implementation, for example the Ministry of Environment and Waters, the Ministry of Finance, the Ministry of Economy, the National Health Insurance Fund, and many Municipalities.
- From May 2003 to August 2003 Access to Information Programme was an implementing partner in the Freedom of Information Global Monitoring Pilot Project conducted simultaneously in five countries. The results were presented in October 2003 in Ohrid, Macedonia. AIP organized the prepared and assisted the filing of 100 information requests to eighteen institutions and conducted eleven profound interviews with access to public information officials in the institutions. In the beginning of December the members of the AIP team (Gergana Jouleva and Nikolay Marekov) prepared and sent a country report. The final report on the Global FOI monitoring will be available on the website of the Open Society Justice Initiative (<http://www.justiceinitiative.org>).
  - The findings from the global monitoring survey for Bulgaria with recommendation to authorities will be part of the *Annual report on the Situation of Access to Information Situation in Bulgaria 2003*, which AIP will publish by the end of February.

## **2. Civic education in several main directions**

The total number of trainings, discussions, seminars, conferences and international events on which members of the AIP have participated with lectures or presentations in 2003 is seventy- four (see Attachment 1).

A total of 1909 people have taken part in seminars and conferences that were either organized by AIP, or where our staff members have lectured or presented AIP experience in 2003.

In 2003 AIP has presented the findings of the Annual report and trainings for the members of the network of journalists and lawyers in the country. AIP representatives presented our experience and lectured on these trainings in cooperation with other organizations – Regional Environmental Center (REC), Municipality of Etropole, Open Government Initiative Project (USAID) and IDG-IT forums.

The focus of the presentations and lectures in 2003 was the relation between Access to Public Information Act, the Personal Data Protection Act, and the Protection of Classified Information Act as implemented by the institutions.

Representatives from Regional Inspectorates of Environment and Waters participated in two-day training sessions on the Aarhus Convention in three Bulgarian cities – Kjustendil, Blagoevgrad and Plovdiv. The participants in these trainings gave excellent assessments of the presentations of Alexander Kashumov and Gergana Jouleva (AIP).

AIP prepared and held several seminars in the town of Etropole for the local administration, teachers, NGOs and journalists on the European standards for access to environmental information.

In cooperation with the Open Government Initiative Project AIP held three discussion meetings with representatives of the National Auditing Office and the State Agency for Internal Financial Control on access to public information and legitimate exemptions from the right to information access. We focused the discussions on specific cases, in which journalists and NGOs, working against corruption, have been seeking information from these intuitions.

An important part of AIP trainings in 2003 was the education campaign on the rights and obligations under the Personal Data Protection Act, adopted in the beginning of 2002. AIP published and disseminated a brochure (10,000 copies) *I have the right to know....* The purpose of the brochure was to raise awareness about the Personal data Protection Act.

AIP organized and held the Bulgarian award ceremony on the International Right to Know Day on September 28, 2003. The event included intensive media coverage and a press conference for presenting awards for institutions, NGOs, citizens, media and journalists who had actively promoted freedom of information standards. A poster was produced and disseminated.

In November 2003 Access to Information Programme and Article 19 conducted a four-day training for trainers on Access to Governmental Information. On the first two days five FOIA officers from Central Government Institutions were trained. During the following two days they delivered training to thirteen of their colleagues. The Freedom of Information Manual for Public officials (pilot version) was used in the training. The manual was disseminated among the participants as a tool for future trainings for public officials. The feedback from the training was excellent.

### **3. Legal assistance in cases of information refusals**

The total number of cases when legal assistance has been provided since January 2003 to December 2003 is 657. Most cases are referred to us through our network of coordinators, but there are a number of cases when citizens and NGOs turn to directly to the office of AIP seeking advice and legal assistance (See the statistical data from our database of information refusals, Attachment 4).

The cases coming from our nationwide network of coordinators are commented by the lawyers in our office and referred back to all coordinators in what we call a "bulletin of assisted cases". In many cases the coordinators of AIP prepare their publications in the regional media using the information about the commented cases in these bulletins.

The number of citizens who have come to the office to seek legal help in seeking information from the public authorities has increased. For the last two years this number has significantly increased compared to 2001. Factors that contribute to the increased demand for the services of AIP are:

- The participation of AIP staff members in TV and radio shows to clarify the regulations of the FOI litigation
- The court decisions in cases of unlawful refusal to grant access to public information and the media coverage of the court cases
- The increasing prestige and expertise of AIP as an organization specializing in the right to information access area

In 2003 the team of AIP discussed and improved the rules for working with the cases referred to our office and for providing advice and legal assistance.

1. Total number of legal consultations – 757<sup>1</sup>
2. Number of written consultations – 355
3. Personal consultations – 88
4. Assistance in preparing a written request – 117<sup>1</sup>
5. Telephone consultations – 106
6. Preparation of court appeals and written statements – 71
7. E-mail consultations – 20

In 2003 the legal team of AIP has been providing free legal assistance to citizens and NGOs and has represented their interest in court in cases of unlawful refusal to grant information access.

A new direction of the legal assistance provided by AIP is attracting lawyers from the country to consult citizens and NGOs in cases when local institutions unlawfully refuse to provide access to public information. We have identified – with the help of our coordinators - lawyers who are willing to work in the protection of human rights area and would like to specialize in working in the field of access to information. AIP has organized two meetings of this network and used them to discuss and elaborate the rules for cooperation when appealing unlawful refusals to grant access to public information. The lawyers from the country participated in the international workshop “Implementation of the Freedom of Information Laws. Litigation” organized by AIP in September of 2002.

During the period 2002 - 2003 AIP continued to actively provide legal help for citizens, NGOs and media in cases when public authorities withhold information. AIP works currently on 48 court cases providing legal advice and/or legal representation. Nineteen additional cases are in the scope of the AIP court practice monitoring. Twenty cases were ended, most of them successfully or with some positive outcomes. In that time period AIP started trainings for local lawyers, some of whom represented applicants in four cases in the country in 2003 (in the cities of Vidin, Veliko Tarnovo and Bourgas), all of them successful before the first instance courts (they are subject to further appeal).

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<sup>1</sup> This number includes the 100 requests filed in the course of the Global FOI monitoring project

As a result of AIP litigation some important FOI issues were decided positively. Many procedural matters were cleared out for both the information seekers and providers.

The courts decided that entities like the National Health Insurance Fund (NHIF) – these are so called public law entities other than state bodies, are not entitled to resort to the exemption of preparatory documents (integrity of decision-making process) under the Access to Public Information Act (APIA). Other court decisions state that information of statistic character principally cannot fall under the FOI exemptions and that the scope of public officials subjected to APIA could be enlarged upon a decision of the relevant public authority.

AIP public interest litigation is largely covered by media, which motivates more interested groups and individuals to exercise their right to access information. The number of cases undertaken by journalists with the aim to communicate publicly a particular problem of openness increased from 2 in 2002 to 6 in 2003.

Beyond that some important debates on APIA provisions started in courts. Some panels of the Supreme Administrative Court ruled that tacit denials (lack of decision upon a request within the prescribed time period) are always contrary to the law and could be appealed without time limits.

The 2003 FOI cases concentrate on the question of the application of FOI exemptions and mainly the ones provisioned under the Protection of Classified Information Act and under the Personal Data Protection Act, both adopted in 2002. State agencies are inclined to over-classify information lacking both training and tradition of openness, or to use personal data protection as a ground of refusal of data about public figures. Litigation appears to be one of the strongest tools to press for compliance with the law and Constitution and for proper balancing of rights and interpretation of legal provisions (information of court cases is available on the website of AIP ([www.aip-bg.org](http://www.aip-bg.org))).

#### **4. Participation in the Public Debate on access to information and freedom of expression issues**

##### **Public discussions on the operative Freedom of Information legislation**

The total numbers of the discussions, where members of the AIP team have taken part in 2003 is nineteen. Only some of these public discussions were organized by AIP.

AIP staff members have participated in the discussions on the TV Draft Act, Amendments on the Law for Not-for-profit Legal Entities, Discrimination Prevention Law, the Judicial reform, Access to Information and Judicial System, Public Control over State Secret Services, on recommendations for amendments to the Personal Data Protection Act, on the amendments to the Criminal Code.

**Publications in the media and participation in radio and TV shows** is another widely used means of communicating Freedom of Information standards to the public.

The total number of own publications and publications prepared with the help of AIP staff members or coordinators is 193 for 2003. (See Attachment 2)

We consider extremely important for the permanent education campaign the participation of AIP staff members or local coordinators in radio and TV shows. Their total number is 197 (See Attachment 3).

In 2003 the team of AIP prepared and published *Annual report on the situation of Access to Information in Bulgaria* (1000 copies in Bulgarian - disseminated through government officials, all members of parliament, NGOs and media and 500 copies in English – disseminated through FOI Advocates network organizations, Democracy Institutes Network, and partners organization of AIP).

In 2003 the team of AIP prepared and published a brochure *I have the right to know...* (printed in 10,000 copies)

In November 2003 the team of AIP prepared and published a handbook *How to Get Access to Environmental Information* (1000 copies in Bulgarian – disseminated through environmental organizations and 100 copies in English – disseminated through EANSEE organizations).

Alexander Kashumov's article *National Security and the Right to Information in Bulgaria* was published in the book *National Security and Open Government: Striking the Right Balance*, printed by Campbell Public Affairs Institute, Syracuse University.

Gergana Jouleva's article *Bulgaria: Appealing to the Authorities* was published in the first edition of Open Society Justice Initiative Newsletter – [www.justiceinitiative.org](http://www.justiceinitiative.org)

All workshops and seminars, reports, commentaries were presented on our web site. (<http://www.aip-bg.org/>)

### **Cooperation on the Regional and Global Level**

Access to Information Programme has organized an international workshop "Implementation of the Freedom of Information Laws. Litigation" on September 26-28 2002, where we presented our book *Freedom of Information Litigation in Bulgaria. Selected Cases*. On the workshop AIP also suggested the idea to establish an International Freedom of Information Advocates Network (FOIA Network). The Executive Director of AIP was nominated for a member of the Steering Committee of the Network. The web designer of AIP has been maintaining the web site of FOIANet (<http://www.foiadvocates.net>). The group of FOI Advocates also proposed 28 September to be nominated as an International Right to Know Day in order to symbolize the global movement for promotion of the right to information. The aim of having a Right to Know Day is to raise awareness of the right to information. On a press conference on Sep. 28, 2003 AIP presented awards to citizens, media and NGOs, who have actively exercised their rights to freedom of information. Other FOIANet organizations will present their activities on the celebration of the Right to Know Day on the newly created website, maintained by AIP (<http://www.RightToKnowDay.net>).

There has been an increasing interest in the experience of AIP in campaigning for the adoption and better implementation of the Access to Public Information Act. Gergana

Jouleva, the executive director of AIP was invited to present the experience of AIP in an essay, published on the Internet site, maintained by the Non-governmental organization National Security Archive (<http://www.freedominfo.org>). The executive director of AIP was invited as a member of the editorial board of this Internet site, a fact that shows that our experience has been highly valued in the global Freedom of Information campaign.

Another indication of the acknowledgement of our work was the invitation to take part in a seminar *What Access to Official Documents?* in Strasbourg, organized in November 2002 by the Human Rights Directorate of the Council of Europe. Gergana Jouleva took part in the seminar along with experts from the members states and international NGOs working in the field of Freedom of Information.

Alexander Kashumov contributed with his article *Access to information Litigation Campaign in Bulgaria* to the book *The Right to Know, The Right to Live* edited by Richard Calland and Alison Tilney and published by the Open Democracy Advice Center, South Africa in 2002.

Alexander Kashumov contributed with a presentation on the seminar *National Security and Open Government* in May 2003 in Washington D.C., USA. The materials from the seminar were published in August as a book *National Security and Open Government: Striking the Right Balance*.

An essay *Appealing to the Authorities: Public Information in Bulgaria* by Gergana Jouleva was published in *Justice Initiatives Newsletter* of Open Society Justice Initiative, August 2003

AIP team members have taken part in twenty-eight regional or international meetings.

Members of the AIP team have taken part in discussing the FOI draft acts in Serbia and Croatia. Members of the AIP team have taken part in discussions on FOI legislation implementation in Hungary, Italy, France, Mexico, Latvia, Estonia, Slovenia, Ukraine and Bosnia and Herzegovina.

Members of the AIP team have taken part with presentations and in discussions in international meetings:

*Transparency of International Financial Institutions: Towards New Collaborations* organized by the National Security Archive (USA) and Bank Information Center (Georgia, USA);

*National Security and Open Government* organized by Campbell Public Affairs Institute (Syracuse University) and Open Society Justice Initiative (Washington DC);

*Web Credibility: Building Trust on the Web* organized by Consumer WebWatch and Consumers International (Ljubljana, Slovenia) and Five Videoconferences between Albania, Bulgaria, Macedonia, Romania and Washington organized by the Word bank. Alexander Kashumov and Gergana Jouleva made a presentation on the fifth videoconference.

In December 2003 Gergana Jouleva presented *Implementation of FOIA in Bulgaria* on a Word Bank seminar in Washington D.C.

## **Institutional achievements**

In 2003 the board of AIP has held one regularly summoned meeting.

On the February 03, 2003 meeting the board accepted the annual report of AIP presented by the Executive Director and approved the budget of the organization for 2002. The board accepted Petko Georgiev as a new member of the Board.

### **At the moment nine people work in the office of AIP:**

Executive director, office coordinator, accountant, four lawyers, coordinator of the local network and a computer specialist, who maintains the database and the Internet page of AIP.

Each Monday the team plans their activities based on the operational monthly plan and based on the current implemented projects.

In 2002 and 2003 we have held several team building meeting to strengthen the organizational capacity and to plan the strategies of the organization. We have invited an outside expert to help us in our discussions.

The control over the legal help provided by AIPF is accomplished through regular statistical reports from the database.

AIP continues to sustain and develop its network of coordinators in all twenty-six regional towns of Bulgaria. In 2003 we have held three meetings with our local coordinators.

AIPF also has a network of twenty-six lawyers in the country. We have had three meetings with these lawyers for the last year.

The Board, the Chairperson, and the Executive Director shall manage the AIPF. The Board annually determines AIPF priorities and at least twice a year supervises the work of the organization.

Accounting services are being contracted in. The audit is being contracted out.

Gergana Jouleva, Executive Director of AIP  
February 5, 2004  
Sofia