

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

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

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

In 2005, AIP has worked in several directions to realize those long-term objectives:

1. Monitoring the regulations of the right of access to public information and its restrictions, as well as the relevant legislation.
2. Monitoring the practices of information provision.
3. Legal assistance in cases of information seeking and in cases of information refusals, including a representation in court.
4. Education and trainings on the Access to Public Information Act (APIA), the Personal Data Protection Act (PDPA), and the Protection of Classified Information Act (PCIA).
5. Participation in the public debate and raising awareness on access to information and freedom of expression issues.
6. Cooperation on national, regional and global level.

The main achievements in the above-mentioned directions are:

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

The advocacy work of Access to Information Programme is based on monitoring of the regulations concerning access to information and its restrictions. The main channels of information about the changes of regulations are:

- The E-bulletin of the Parliamentarian Public Relations Department;
- Participation in the working group on the draft legislation
- Media publications

AIP has continued its advocacy work by:

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

All comments and recommendations were released to the media, published in the AIP information newsletter and systematically presented in the Regular Annual Reports *Access to Information in Bulgaria* issued by AIP.

In 2005, the following comments and recommendations were prepared and disseminated:

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

- Recommendations on the amendments to the Personal Data Protection Act (PDPA);
- Recommendations on the amendments to the Protection of Classified Information Act (PCIA);
- Recommendations on *The Implementation Rules for Access to Public Information in the Public Internal Financial Control Agency*;
- Comments on the amendments to the Ministry of Interior Act;
- Comments on the amendments to the Public Disclosure of Property Owned by High Government Officials Act;
- Comments on the amendments to the Access to Public Information Act;
- Recommendations to the Trade Register Draft Law.

In certain cases, members of AIP discussed proposed regulations in working groups in responsible institution. In the reported period (2005), members of AIP team participated in the following working groups in:

- *The Public Internal Financial Control Agency on The Implementation Rules for Access to Public Information* – Gergana Jouleva, Alexander Kashumov, Fani Davidova;
- Ministry of Finance on the amendments to Personal Data Protection Act – Fany Davidova, Alexander Kashumov;
- Council of Ministries on *A White Paper For a Modern Administration* – Gergana Jouleva.

All AIP comments, recommendations and statements were presented in public debate through the media (See the attachments related to media coverage of AIP work No 3 and No 4)

2. Monitoring the freedom of information practices

In 2005, monitoring the practices of information provision was realized through:

- The systematization of the monthly reports of the AIP coordinators about Access to Public Information Act implementation practices in different regions of Bulgaria. Some of these reports are published in the monthly AIP newsletter. The coordinators collected cases of information refusals and also sent them to the AIP office for comments and legal help.
- The systematization of provided legal assistance in cases of information refusals to the office of AIP in our electronic database – 408 cases for 2005. Statistics reports from electronic database were giving some useful information about the implementation of the APIA and the problems in the freedom of information area.
- Furthermore, an important source of information about the implementation of the APIA in the institutions are trainings organized by AIP or by other institutions and organizations (such as The Institute for Public Administration and European Integration, The Customs Agency, the Public Internal Financial Control Agency, NGOs, private companies).

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

Annual report on Access to Information in Bulgaria 2004, summarizing and analyzing the results from monitoring of freedom of information legislation practices, 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.

3. Legal assistance in cases of information seeking, in cases of information refusals, including a legal representation

3.1. Legal assistance

Legal assistance continued to be one of the main activities of AIP. Legal assistance was provided from the initial stages of information seeking, where the legal team gives consultations in cases of information seeking. Legal help was also provided in cases of information refusals. (See Attachment No 1 – Statistics from AIP Database).

An important part of the legal assistance is the preparation of applications to courts and court representation of applicants who came to AIP.

The total number of cases when legal assistance has been provided since January 2005 to December 2005 is 408. As it has been already established in the previous years, most of these cases are referred to AIP through our network of coordinators in the country – 181 cases.

The character of the information sought by the requesters who were assisted by AIP varies a lot:

- Information about the activities of the public authorities related to contracts with private companies, public procurements, and privatization procedures was most often requested.
- Information contained in the public registers has continued to be problematic. There is a particular interest to the *Register of Property Owned by High Government Officials*, the *Register of the Licensed Hunters*, the *Register of Experts, Licensed to Perform Environmental Impact Assessments*.
- The results from activities of public financial control agencies (information about financial audits, expenditures of budget resources, internal financial examinations, etc.)
- Information about environmental issues is actively sought.

In some cases, clients asked for help to identify the obligated authority or to identify the documents where the requested information was recorded or to file request properly.

Legal assistance provided by AIP helps clients in different ways:

- In formulating the information requests. For example, a request for access to the documents of the *Trakia Highway* concession was filed by two Bulgarian newspapers (*Novinar* and *Dnevnik*) with the help of AIP. As a result, it has been discovered that the public register of concession contracts was not functioning.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

- By re-submitting requests for information which has been denied by the former government. The Former Minister of Regional Development and public works denied access to the concession contract for *Trakia Highway* to many requesters. This information was politically sensitive before the national elections in summer 2005. After the national elections, AIP requested and received the concession contract from the new minister.
- By using cross-requesting techniques. In the cases when environmental NGOs were seeking information about the construction of a new nuclear plant *Belene*, AIP lawyers advised the requesters to seek information from more than one institution. As a result, requesters received more document.
- By involving lawyers in different activities related to the development of the case. In the case of construction of the new nuclear plant *Belene*, AIP team monitored and participated in all related activities in order to assess the transparency of the project. In order to provide adequate legal help in this case, the AIP legal team participated in the public hearings, presentations and discussions and did additional legal research and advocacy.
- By submitting appeals to the court. In some cases, submission of appeals is enough to persuade the public institution to release the denied information. This was the case of the Environmental Association *Green Balkans* from the town of Plovdiv when they submitted a request to the Minister of Agriculture and Forestry demanding access to all documents related to the legal analysis of the privatization of the state owned company *Sredna Gora*. Initially, the information was denied on the grounds of third party's interest protection and the association turned to the legal team of AIP for assistance. After filing an appeal to the court, the ministry reconsidered their decision for refusal and provided access to the information.

As a whole, the consultation provided by the legal team of AIP have lead to some important results: easier identification of the information sources; easier identification of the information holders; release of more information by public authorities without referring to the courts.

3.2. Representation in court

The AIP legal team continued to provide legal services to citizens, NGOs, and journalists, addressing their FOI cases to the courts. During the reported period, AIP prepared 38 applications (letters of appeal) to enable people to go to courts and seek protection of their right to access to information.

Legal help was provided in 35 court cases in the form of preparation of appeals, statements, etc. submissions and representation in courts. Besides, AIP monitored 9 separate cases. The cases at the Supreme Administrative Court (SAC) are of particular importance (24 cases) since their judgments set a kind of precedent and are used as a pattern by the lower courts and the public administration. In the reported period, the court has delivered 25 court decisions.

In some cases, public authorities denied information using formalistic, rather than lawful arguments. To overcome this approach, AIP supported litigation started by an NGO from the town of Razgrad. The Mayor has refused information in a number of requests on the ground that the NGO did not provide proof for its legal status. The AIP legal team prepared letters of appeal to the Supreme Administrative Court (SAC) in

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2005**

five cases. In its decisions, the SAC adopted an advantageous interpretation, stating that everyone has the right to access information without proving anything.

In other cases, public authorities denied information from public registers on the ground of personal data protection. This disclosure of such information would reveal whether wrongdoings or possible corruption were in place (in the environmental impact assessment of the new nuclear plant, in the process of hunting animals, etc.).

Despite AIP legal help there is a little progress in these practices. The balance between access to public information and personal data protection will continue to be an issue.

Another issue, rising from these cases is the understanding that personal data in the public register is not subject to protection. This problem needs also advocacy work.

Another type of cases in which AIP has prepared submissions to the court are related to budget spending and government contracts. The most frequent grounds of refusal in these cases are the third party interests protection (trade secret). The protection of classified information is also used.

The permanent interest towards financial information, generated by the institutions of the public internal financial control, has led to the frequent appeals of refusals.

In the case of Kalina Grancharova – a journalist from the local newspaper of the small town Tutrakan (*Tutrakanski Glas* Newspaper) – the tacit refusal of the Mayor was challenged before the regional court. The Mayor had refused to provide a copy of the financial audit report of the municipality, prepared by the Territorial Directorate of the Public Internal Financial Control agency (PIFCA). The regional court reversed the denial. This case is important for the implementation of access to information law on the local level.

In the last years, the demand for and denials of financial audit reports was a permanent practice. The legal help of AIP in challenging such denials combined with the AIP advocacy has led to changes in the practices in 2005.

During the reported period, AIP lawyers continued to represent court cases, taken before 2005.

In 2005, AIP represented clients in ten new important access to information cases, which we chose based of the following criteria:

- public interest in the requested information (Journalist Zoya Dimitrova v. President Office, Krasimir Krumov v. Shoumen Regional Governor; Novinar Nwspaper v. the Ministry of Regioanl Development and Public Works);
- possible impact on the national level policy (Hristo Hristov v. Supreme Judicial Council; Hristo Hristov v. National Intelligence Agency, Novinar Newspaper v. the Ministry of regional Development and Public Works, Yurii Ivanov v. the Public Internal Financial Control Agency);
- legal issue involved (For the Earth v. Ministry of Finace, Information and Education Environmental Center v. Council of Ministers, Kiril Terziiski v. the Ministry of Finance);
- other details that could be of importance (Journalist Zoya Dimitrova v. President Office; Hristo Hristov v. National Intelligence Agency; Kiril Karaivanov v. the State Reserve).

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

The execution of the court decisions by the administration is improving, but still with some problems. For example, in the cases of Krassimir Krumov and the non-governmental organization from Razgrad (described above), the requested information was provided shortly after the court had reversed the refusal.

In other cases, however, additional efforts are needed. AIP prepared and sent a reminding letter to the Government Information Service (GIS) after the court ordered the release of information about the expenses of ministers (a case of journalist Pavlina Trifonova from *24 Chassa* Newspaper). As a result the information was given to the journalist.

However, the reminding letter for the execution of the court decision is not always effective. For instance, in the case of Lubov Gusseva v. the Mayor of Vidin Municipality, AIP requested from the Supreme Administrative Court to fine the Mayor of the municipality for non-compliance with the court decision.

In 2005, AIP published the third volume of its book *Access to Information Litigation in Bulgaria. Selected Cases* containing the main trends in the FOI in the past year, analysis of the court practice and selection of cases.

In November, 2005, AIP organized two conferences on the court practices under the Access to Public Information Legislation – national and international one. The national conference was hold on the November 23, 2005 in Sofia. Fifty four representatives from non governmental organizations, legal advisers in the central government, lawyers, judges and journalists participated in it. On November 25 and 26, 2005, AIP held an International Conference on Freedom of Information Litigation with the financial support of the Council of Europe within the framework of the Stability Pact of South and Eastern Europe. Representatives of eighteen freedom of information advocates organizations from Europe and USA attended the conference.

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

In 2005, the members of AIP team had participated with lectures or presentations in 102 discussions, seminars, conferences and international events (See Attachment No.2). The total number of participants in all trainings, discussions, seminars and conferences in 2005 is 1640.

The total number of trainings in which AIP team was involved in 2005 was 27 with 719 participants.

In 2005, AIP organized trainings on the implementation of Access to Public Information Act for public servants, nongovernmental organizations and journalists.

4.1. Trainings of public servants

In April 2005, in the town of Plovdiv, AIP organized a training for public officials from the local administration responsible for the implementation of the Access to

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

Public Information Act. In the training, the Slovak experience was presented by an expert from a partner organization. The two-day training was attended by 34 public officials from the Municipal Information Centers of the municipalities in the regions of Plovdiv and Pazardzhik. The assessment of the training is very positive – most of the participants were satisfied by the methodology and the training and all of the participants “feel confident enough to take decisions about providing public information” on the basis of the knowledge they gained in the training.

AIP members participated as lecturers in three trainings on access to information for public servants organized by IPAEI, Public Internal Financial Control Agency (PIFCA), Customs Control Agency and other institutions. The number of trained public servants is 367.

4.2. Trainings of NGOs

In 2004, AIP team started a training program for NGOs. The aim of these nine days training was to educate Bulgarian NGOs so that they would be able to conduct trainings by themselves thus creating a network of freedom of information trained NGOs. Four NGOs were trained in 2004. In 2005, six other NGOs took part in these trainings for trainers organized by AIP. They gave good evaluation assessments on the trainings and some of them had already provided consultations on FOI.

The members of AIP team participated in different events – seminars, conferences organized by partners organizations. (See Attachment No 2)

4.3. Training of journalists

In September and in October 2005, AIP held two trainings for journalists and journalism students on problematic issues related to the good government and good journalism. A Dutch expert on communication policies, former journalist and current lobbyist at the House of Parliaments in the Hague, was the guest lecturer of the two trainings.

The September training was one week training for practicing journalists. Nine journalists from central (Sofia based) and eleven journalists from local electronic and printed media took place in the discussions. The last day of training was held in the city of Plovdiv (12 journalists participated).

The October training was organized for students majoring in Journalism – three days sessions were held at the American University in Bulgaria (AUBG) at the town of Blagoevgrad and one day training was held at the Journalism Department of the Sofia University. A total number of 89 students from both universities attended the sessions of the training.

The members of the team lecturing on the trainings organized by other partner organizations – Bulgarian Media Coalition, Media Development Center, Free and Democratic Bulgaria. The total number of participants was 111.

4.4. Study trip to Slovakia

In September 2005, 7 participants – two public officials (from the Ministry of Regional Development and Public Works, and from the Government Information Services at the

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

Council of Ministers), five NGOs representatives (three from AIP, from the Foundation for Local Government Reform, and from the National Association of the Municipalities in Bulgaria) participated a study trip to Slovakia. The training was organized by VVMZ East European Investment Services B.V. The training presented the Slovak experience in Access to Public Information Act implementation, the practices in the local and central authorities in Slovakia, monitoring the legislation implementation, etc.

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

Public debate on Freedom of Information Legislation

AIP experts have participated in the discussions on the amendments to the Personal Data Protection Act; on the amendments to the Protection of Classified Information Act; on the working of the Implementation Rules for Access to Public Information in the Public Internal Financial Control Agency; on the amendments to the Ministry of Interior Act; on the amendments to the Public Disclosure of Property Owned by High Government Officials Act; on the amendments to the Access to Public Information Act.

Publications in the media and participation in radio and TV shows

AIP participation in the public debate on the operative Freedom of Information legislation (comments, recommendations, statements) were covered by national and local media. Media campaign is widely used means of communicating the 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 282 in central, regional and local printed media for 2005. (See Attachment 3).

Monthly electronic newsletters

From the beginning of 2004, AIP started to produce and disseminate electronically a Freedom of Information Newsletter. Twelve monthly electronic newsletters including legislation analyses, comments, recommendations, presentation of AIP events, and other domestic and international news were disseminated in the period January – December, 2005.

All newsletters are being published on the web site of AIP in Adobe PDF and HTML format (See http://www.aip-bg.org/bulletin_bg.htm in Bulgarian and <http://www.aip-bg.org/newsletter.htm> in English). Currently, the recipients' list of the newsletter includes 1007 e-mails of NGOs, media, citizens, public officials, and journalists.

In the twelve electronic newsletters, we have published one hundred articles by 18 authors. In all issues, we presented article about international good practices. In every issue we present positive and negative practices of the implementation of APIA in the regional towns of Bulgaria.

At least ten of publication were re-publish by other media.

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

In 2005, AIP prepared, published and disseminated The Annual Report on the *Access to Information in Bulgaria in 2004* (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, and partners organization of AIP).

In 2005, AIP also published a handbook for the administration *How to Apply Access to Public Information Act?*.

Web page

The web page of AIP is being updated regularly. We publish news about important court cases, protocols, rulings, and judgments of the courts, comments and recommendations, AIP events, etc. All AIP publications are made available at the web site as soon as they are prepared in English and Bulgarian.

The hosting server of AIP has launched new statistic interface, providing opportunities for more detail traffic. In 2005, the number of distinct web page visits for www.aip-bg.org is between 5,000 and 11,000 per month coming from around 5,000 different hosts. Every visitors makes an average number of six hits.

We have created a subsection of the web site dedicated to the right of personal data protection, which will include our analyses and recommendations in regards to the Personal Data Protection Act, information materials for citizens, international and domestic legislation, and information about the work of the Personal Data Protection Committee in Bulgaria.

Radio show

In the period January – July, 2005 Access to Information Programme run its own weekly radio show on RadioNET every Monday between 7 p.m. and 8 p.m. RadioNET is available in Sofia and is also broadcasted on the Internet (<http://www.radionetbg.com>). The introductory show was focused on the work of AIP and freedom of information in general. Other topics covered by the show were: personal data protection, access to health and environmental information, access to the archives, access to public procurement contracts, etc.

Starting from February 2006, we plan to run a new radio show on Freedom of Information topics together with *Radio New Europe*.

We consider the participation of AIP team members or local coordinators in radio and TV shows extremely important for the permanent education campaign. Their total number is 253 (See Attachment 4).

International Right to Know Day

Since 2003, AIP has been organizing the Right to Know Day Awards ceremony on the 28 September. The aim of having a Right to Know Day is to raise the awareness of the right to information. It is a day on which freedom of information activists from around the world promote open and democratic society.

The celebration of the Right to Know Day is part of the initiatives of the International Freedom of Information Advocates Network (FOIANet <http://www.foiadvocates.net/>). In

KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP) FOR THE PERIOD JANUARY – DECEMBER 2005

2005, thirty members of the FOIANet organized different events on 28 September (See <http://www.righttoknowday.net>).

AIP organized and held the Annual Award Ceremony on the International Right-to-Know Day on September 28, 2005. The ceremony was presented in the media; about 150 journalists, public officials, NGOs representatives and citizens attended the ceremony. The September issue of the newsletter was devoted to the September, 28 - the International Right to Know Day.

5. Cooperation on the Regional and Global Level. International recognition of AIP

In 2005, Access to Information Programme received two prestigious awards – The Templeton Freedom Awards.

AIP received the first prize for outstanding research and innovative projects concerning the relationship between free enterprise and the ethics, values and character that sustain it. Atlas Economic Research Foundation organizing the awarded process and ceremony.

The second award is grant for Institute Excellence.

These two grants were presented on Atlas Economic Research Foundation 5th Freedom forum held in Miami Florida on April 2005.

Executive Director of AIP attended the 5th Freedom Forum to receive the awards.

In February 2005 Gergana Jouleva participated in 3rd International Freedom of Information Commissioners Conference organized by Mexico IFAI in Cancun.

The members of AIP team participated in two working meetings of Global Transparency Initiative – one in New York (USA) and another in Krakow (Poland)

Members of the AIP team were trainers, presenters or lectures in 16 regional seminars and international conferences in Italy (Trieste), Mexico (Cancun), Argentina (Buenos Aires), Chile (Santiago), Turkey (Ankara), Macedonia (Skopie), Serbia (Belgrade), Poland (Krakow), Spain (Madrid), Ukraine (Kiev), Azerbaijan (Bacu), Rumania (Bucharest),Moldova (Chisinau).

In November 2005 Access to Information Programme has organized an international Freedom of Information Litigation Conference. The conference was supported by Council of Europe (Stability Pact). The conference was organized as an event of the Freedom of Information Advocates Network. Representatives of freedom of information advocates organizations and individual activists from fifteen countries attended the conference, organized by Access to Information Programme, Bulgaria.

The Conference was widely covered by national media in twenty one publications.

The Executive Director of AIP – Gergana Jouleva - was elected as a Member of Advisory Board of *Privacy International* and became a founder member of Access-Info Europe.

Institutional achievements

In 2005 the board of AIP has held its regular meeting.

In March 2005 meeting the Board accepted the annual report for the work of AIP and approved the budget of the organization for 2005.

**KEY ACHIVMENTS OF ACCESS TO INFORMATION PROGRAMME (AIP)
FOR THE PERIOD JANUARY – DECEMBER 2005**

In June 2005 we held a team building meetings to strengthen the organizational capacity and to discuss the strategies of the organization with team and coordinators.

At the moment ten people work in the office of AIP: executive director, office coordinator, accountant, four lawyers, coordinator of the local network, projects coordinator and a website coordinator, who maintains the database and the Internet page of AIP.

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

AIP continues to sustain and develop its network of coordinators in all twenty-six regional towns of Bulgaria. In 2005 we have held three meetings with our local coordinators.

The AIP shall be managed by the Board, the Chairperson, and the Executive Director. The Board annually determines AIP priorities and at least twice a year supervises the work of the organization.

Every year, an audit company, AFA, performs an audit on organization and submits a report to the Board of Access to Information Programme (AIP).

Gergana Jouleva, Executive Director of AIP
January 31, 2006