



## PROBLEMS AND TENDENCIES IN ACTIVE DISCLOSURE OF INFORMATION

**(Results from AIP 2012 Audit of the Web Sites  
of Executive Bodies in Bulgaria.  
First Active Transparency Rating)**

In its report *Access to Information in Bulgaria 2010*,<sup>1</sup> Access to Information Programme has analyzed in details the developments of the standards, the driving forces, the elements and the legislation regulating the online publication of specific categories of information. The developments in Bulgaria have also been outlined. Some of the findings signified in the last year's report are valid for this year as well.

### THE LEGISLATION REGULATING THE ACTIVE DISCLOSURE OF INFORMATION ONLINE HAS NOT BEEN AMENDED IN 2011

The Access to Public Information Act (APIA), adopted in 2000, introduced the obligation for the heads of executive bodies to publish information related to the powers, the structure, the functions, the responsibilities, the list of the acts issued, the information resources, and contact information (Art. 15). The 2008 APIA amendments complemented the obligation under Art. 15 with the obligation for *Publication in Internet* (Art. 15a, Para. 1) and introduced a new obligation for the maintaining of an *Access to Information* section on the institutional web sites (Art. 15a, Para. 2). The motivation of the legislators behind the introduction of the obligation for an *Access to Information* section apparently was to facilitate the information seekers. In this section, the internal APIA implementation rules and a description of the procedure for accessing the public registers maintained by the administrative structure should be disclosed, as well as the annual reports on the APIA implementation, which the heads of the executive bodies should make and send to be included in the annual report *The State of the Administration* adopted by the Council of Ministers and presented to the National Assembly.<sup>2</sup>

The legal regulation of the active transparency of public bodies is a complex system. In order to evaluate this system, we have to take into account not only the obligations under the access to information law which covers different aspects of the public bodies' activities. We also have to take into account the obligations under the legal acts of the local government bodies and the secondary legal acts regulating the procedures for publication in the Internet.

<sup>1</sup> [http://store.aip-bg.org/publications/ann\\_rep\\_eng/2010.pdf](http://store.aip-bg.org/publications/ann_rep_eng/2010.pdf)

<sup>2</sup> Pursuant to the *Administration Act*: "Art. 62 (2) (Amended – State Gazette, issue 24/2010) The Prime Minister shall annually, till April 30, present a report on the state of the administration before the Council of Ministers to be adopted by the CoM. The report shall be referred for information to the National Assembly and published on the electronic web site of the Council of Ministers." On July 20, 2011, the Council of Ministers adopted *The State of the Administration* report. The report was published on the web site of the CoM in the end of July 2011: <http://www.government.bg/fce/001/0211/files/AnnReport10.pdf>. In 2010, the report was published in August.



An important factor for the assessment of the active transparency is also the online availability of a great number of public registers which public bodies should maintain for the purpose of fulfilling their legally prescribed powers and functions.

For instance, the obligation of the municipal councils' administrations to publish and announce the acts of the municipal councils via the Internet is provided by the *Local Government and Local Administration Act*.<sup>3</sup>

Accountability and transparency of the activities of the administration – strategies, programs, decisions, reports, contracts, including financial transparency – are still in the sphere of declared policies and not legally bound, with few exceptions like the development plans of the municipality which should be adopted by the municipal council and under the requirements of the *Local Government and Local Administration Act* should be public.<sup>4</sup>

The *Public Disclosure of Property Owned by High Government Officials Act* has an important role in the understanding of the active transparency situation. The Chairperson of the National Audit Office is responsible for the implementation of the law. The maintaining of an online accessible register, which contains the lists made under the prescription of the law, the asset declarations, the incompliance reports, and the results from the inspections of the National Revenue Agency, is an important element of the public bodies' transparency.<sup>5</sup>

Another element of the active transparency is the obligation for publication of the declarations under the Art. 12 of the *Prevention and Determining of Conflict of Interests Act (PDCIA)*. The online publication of these declarations is legally bound.<sup>6</sup>

### **Budget Transparency**

Article 5 of the *Municipal Budgets Act* states that the budget of the municipality should be public without setting forth the channels and the means for guaranteeing the online publicity.<sup>7</sup>

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<sup>3</sup> *Local Government and Local Administration Act* : “Art. 22 (2) (New – SG, issue 69/ 2006) The acts of the Municipal Council shall be announced to the population of the municipality within the timeframe stipulated by Para. 1 via the mass media, the Internet site of the municipality, and via other appropriate means, specified by the Regulations under Art. 21, Para. 3.”

<sup>4</sup> *Local Government and Local Administration Act*, The Municipal Council whose acts shall be public “Art. 12 (Amended SG, issue 61/ 2007) adopts strategies, forecasts, plans and programs for the development of the municipality which reflects the European policies for development of the local communities.”

<sup>5</sup> <http://www.bulnao.government.bg/index.php?p=2345&lang=en>

<sup>6</sup> *Prevention and Determining of Conflict of Interests Act* (SG, issue 94 as of 2008, effective January 1, 2009): “Art. 17 (1) The person occupying a public position shall submit a declaration under Art. 12 of this act to the body which selects or assigns them, or to the respective commission – for a person under Art. 25, Para. 2, items 1 and 3.

(2) The declarations shall be disclosed on the Internet site of the bodies under Para. 1 in observation of the provisions of the Personal Data Protection Act.”



The *State Budget Act* does not set forth the phase in which the draft budget should be public and the means via which this should be done. The law provides that the state budget should be adopted with an act of Parliament and that its implementation should be organised by a Regulation of the Council of Ministers. It does not provide for any details regarding the publicity of the budget and the possibilities for its discussion, nor does it refer to the *Law on Normative Acts*.<sup>8</sup>

The problems related to the transparency of public procurement and concession contracts are analyzed in the current report at a practical level, based on cases referred to AIP for legal help and the successive litigation on these cases.

### Online Public Registers

State authorities collect information about the citizens and the legal entities and their activities which is necessary for the implementation of their powers in the decision making on individual cases or in fulfilling their registration or oversight functions. The number of registers maintained by the public bodies is considerable. Their maintaining in most of the cases is regulated by a law, in some cases – by decisions of the municipal councils or decisions of the heads of the respective public bodies.

In a number of instances, citizens and legal entities cannot refuse to provide the information required from them because they would thus be granted the right to exist in the legal world – for example the *civic status registers*, the patent registers or the registers of organizations for collective management of rights under Art. 40 of the *Copyright and Related Rights Act*.

Specialized laws regulate the publicity of a number of information volumes, lists, descriptions, counts which should be accessible to the public. Such information resources and data bases may be called public registers. Some normative acts stipulate that the publicity of these registers should be guaranteed through the Internet sites of the institutions. Obviously, such a requirement should be legally bound for all public registers. At the moment, public registers even if not online available are publicly accessible, i.e. everyone can request information from them on the base of the APIA or under a special procedure.

In 2011, an AIP team started a special survey on the legal acts regulating the creation and maintaining of public registers. The legal review was followed by a review of the online available public registers. Among the 3,945 identified public registers maintained by public bodies at a central, regional and local level, 516 should be available online by law. Up to now, 631 online registers have been identified. At its current phase, the survey does not

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<sup>7</sup> *Municipal Budgets Act*: Art. 5 (Amended – SG, issue 107/ 2003) The Municipal budget shall be public and shall be overseen by the local community via procedure set forth by the Municipal Council and by legally bound competent bodies.

<sup>8</sup> *State Budget Act*, Art. 22 and Art. 23.



cover the legal acts of the local government bodies, which apparently also regulate the maintaining of public registers online.<sup>9</sup>

### **POLICIES FOR IMPROVEMENT OF ONLINE DISCLOSURE**

In 2011, the Bulgarian Government joined the Global Initiative Open Government Partnership.<sup>10</sup>

On September 20, 2011, the Open Government Partnership (OGP) was launched at a meeting in New York where 46 states (including Bulgaria then represented by the Minister of Foreign Affairs Nikolay Mladenov and the Head of the Cabinet, Rumiana Bachvarova) joined the initiative officially and adopted an [Open Government Declaration](#).

The decision for Bulgaria's participation in the OGP was taken at a Council of Ministers session as of August 24, 2011. The Council for Development at the Council of Ministers is the responsible body for the coordination of Bulgaria's participation in the initiative. All countries participating in the Open Government Partnership have to develop a National Action Plan based on a wide public consultation. The Council for Development should have drafted and presented such an Action Plan to the Council of Ministers till March 2012.

The Open Government Partnership was initiated by the governments of the USA and Brazil and is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The OGP is coordinated by a Steering Committee of eight states and leading civil society organizations in the area. The start of the initiative was announced by the US Secretary of State Hillary Clinton and the Brazil Minister of Foreign Affairs Antonio Patriota on July 12, 2011 in Washington DC, USA. A one-day meeting with representatives of 80 states supporting the initiative was held.

One of the basic elements of the already adopted national action plans of the states participating in the initiative is the development of active transparency through specific measures.<sup>11</sup>

Bulgaria's joining to the global Open Government Partnership initiative shows a clear commitment to the undertaking of specific measures for enhanced government transparency.

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<sup>9</sup> The results from the legal survey and the review of the online available public registers are incorporated in the portal *Public Registers*: <http://publicregisters.info/>

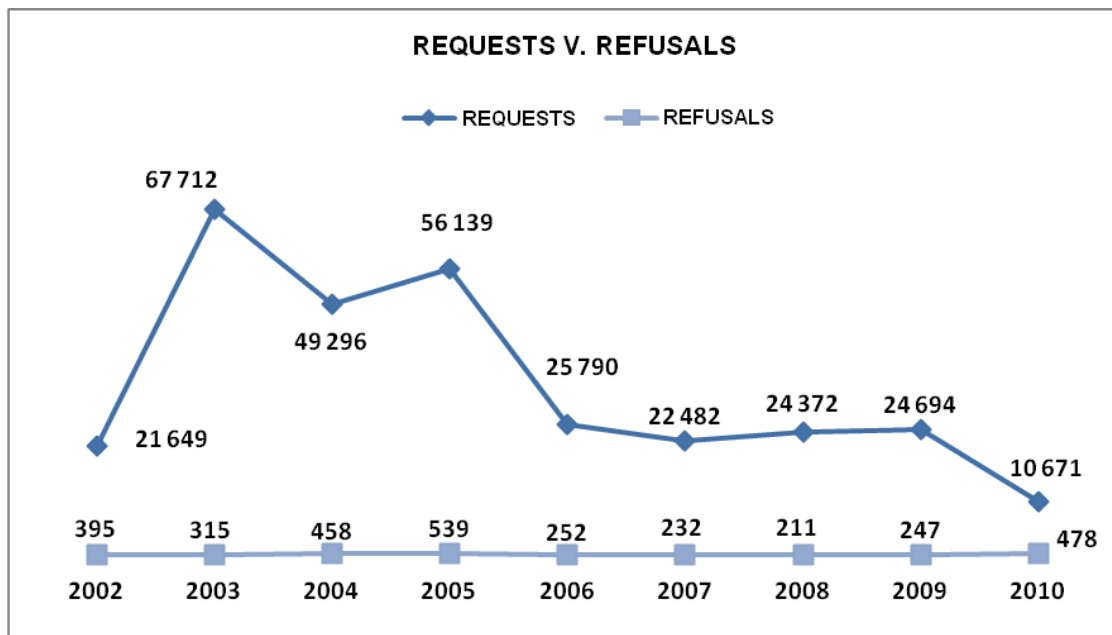
<sup>10</sup> [www.aip-bg.org/documents/ogp.htm](http://www.aip-bg.org/documents/ogp.htm)

<sup>11</sup> Information about the Open Government Partnership is available on the special web site of the initiative: <http://www.opengovpartnership.org/> - participating countries, national action plans, statements of the heads of the steering committee states.



### Assessment of the APIA implementation According to the Council of Ministers report *The State of the Administration 2010*<sup>12</sup>

The government report *The State of the Administration 2010* was adopted at a session of the Council of Ministers and published in the summer of 2011. Its statistics show a decrease in the number of the filed access to information requests and an increase in the number of refusals in comparison to previous years.



However, no analysis or explanation of this drastic change is given by the report.<sup>13</sup>

On the basis of the findings in the report *The State of the Administration 2011*, the following recommendations are formulated:

- “The administrations which have not developed Access to Information Implementation Rules, nor explanatory information for citizens on how to exercise their access to information right, should fulfill this legal obligation and develop such rules and information.
- The administrations which have not yet published on their web sites the categories of information exhaustively listed in Art. 15 of the APIA should undertake measures to fulfill the requirements of this provision.

<sup>12</sup> The report was published on the web site of the Council of Ministers in the end of July 2011:  
<http://www.government.bg/fce/001/0211/files/AnnReport10.pdf>.

<sup>13</sup> The change is drastic as the number of the requests has decreased by half while the refusals have increase with 3% in comparison to previous years. See the Chart *Requests v. Refusals* above which is based on data from the government reports *The State of the Administration 2003 – 2011*.



- It is imperative that a thorough analysis of the transparency of all administrations is performed, the good models are popularized and recommendations are referred to these administrations which did not cover the minimum standards.
- The administrations which do not have an official/s responsible under the APIA should assign such.
- It is necessary to continue the training of officials/departments responsible under the APIA in order to reduce to the minimum the number of court proceedings against decisions for access to information and refusals.”<sup>14</sup>

As far as the trainings for officials are concerned, apparently, the Public Administration Institute has not taken them into consideration. Trainings in legislation and development of transparency systems within the state administration are not among the topics in the catalogue for mandatory trainings provided by the institute.<sup>15</sup>

In 2011 again, no steps were undertaken to start the procedure of signing and ratification of the Council of Europe Convention on Access to Official Documents regardless of the lack of legislative obstacles for Bulgaria’s accession to this first binding international treaty on government transparency.<sup>16</sup>

The results from the implementation of transparency policies or the lack of such results within the executive bodies can be traced on the basis of AIP performed assessment of institutional web sites. AIP has been performing such an assessment since the APIA amendments in 2008. The results of these assessments are available on the AIP web site.<sup>17</sup>

### **AUDIT ON THE INTERNET SITES OF THE EXECUTIVE BODIES AT CENTRAL, REGIONAL, AND LOCAL LEVEL**

#### **Methodology**

Within the period January 23 – March 16, 2012, an AIP team has reviewed and assessed 474 web sites out of a total of 487 executive bodies at central, regional, and local level. The web sites were audited on the basis of 39 (40 for the municipalities) indicators, organized in three groups encompassing the obligations under the Art. 15 and Art. 15a of the APIA, and other standards for active disclosure of information, and related to:

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<sup>14</sup> *The State of the Administration 2010* report, pp 10-11.

<sup>15</sup> <http://www.ipa.government.bg/files/custom/news/2012/IPA-catalog-2012.pdf>

<sup>16</sup> AIP maintains a special section on its web site in Bulgarian with the history of drafting, the adoption, translation of the Convention on Access to Official Documents and the Explanatory Report, and the report on the compliance of the Bulgarian legislation with the standards set forth by the Convention: [http://aip-bg.org/documents/coe\\_convention\\_aod.htm](http://aip-bg.org/documents/coe_convention_aod.htm)

<sup>17</sup> <http://www.aip-bg.org/en/surveys/2012/204468/>



- 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.

Besides the assessment of the web sites with regard to the obligations for online disclosure of information, the researchers had to review the online public registers of the authorities at regional and local level, where such were available.

Also, 485 requests were filed electronically for access to information mandatory for online publication, more precisely – for a description of the procedure for accessing the public registers maintained by the respective administrative structure (Art. 15a, Para. 2 of the APIA) in an electronic form or referring to the direct link of the web site of the public body where the information can be found. The responses to those requests have been used to more objectively evaluate the readiness of public bodies to publish online their registers. A lot of the responses described the number of public registers maintained by the respective authority and which of them are available online.

### Results

The audit results will be organized like in the last year's report on the basis of the assessment of information actively disclosed on the institutional web sites related to the institutional information, organizational structure, operational information, financial and other transparency, and the special section facilitating the information seekers – *Access to Information*.

Out of the Administrative Register of 487 executive bodies at a central, regional, and local level, 474 institutional web sites were identified.<sup>18</sup> The number of public bodies which do not have Internet sites has diminished in comparison to last year. Still without web sites are the Regional Directorate of the Ministry of Interior – Haskovo, the Regional Health Inspections in Blagoevgrad, Sliven, Shumen, Pleven, Haskovo; and the Municipalities of Boinitsa, Bregovo, Valchidol, Gramada, Makresh, Opaka, and Sungurlare.<sup>19</sup>

Although these 13 institutions do not maintain official web sites, six out of them responded to the electronic requests within the legally prescribed timeframe – the Regional Directorate of

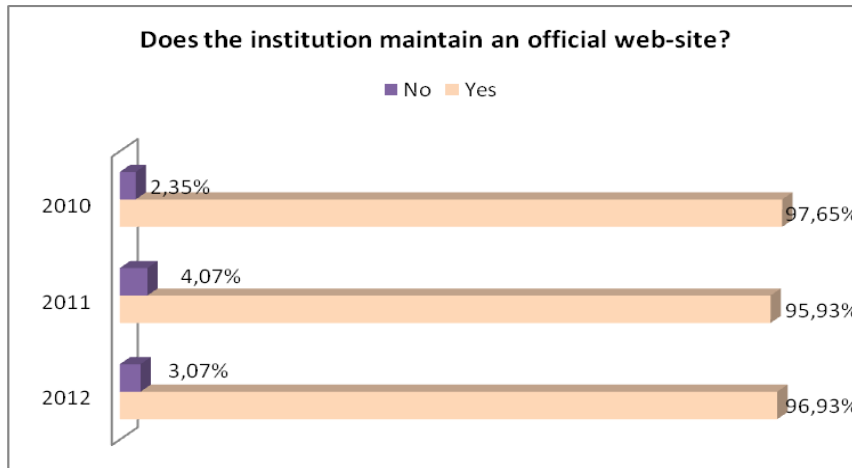
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<sup>18</sup> The Administrative Register (2006) which substituted the Register of Administrative Structures and Administrative Acts (1998) is maintained by the Council of Ministers: <http://www1.government.bg/ras/>. The list of the institutions was integrated in AIP Internal Information System for the purposes of the audit (in Bulgarian): [http://www.aip-bg.org/surveys/Резултати\\_по\\_институции/201077/](http://www.aip-bg.org/surveys/Резултати_по_институции/201077/).

<sup>19</sup> In order for the requests to be filed, the e-mail addresses of these institutions were sought through other channels – the web sites of the Regional Administrations, the National Association of Municipalities in Bulgaria.



the Ministry of Interior – Haskovo, the Regional Health Inspections in Sliven and Pleven; and the Municipalities of Valchidol, Opaka, and Sungurlare.



**Institutional Information – legal basis of the institution, functions, services provided, data bases and information resources**

The obligations of the heads of the executive bodies are to publish online up-to-date information about their powers, functions and the responsibilities of the respective administration. A big part of this information is contained in the legal acts and the regulations of the administration which regulate the establishment and the activities of the institution, complemented with special web site sections where a summary of the functions and responsibilities of the authority are published, as well as the services it provides to citizens and legal entities. With regard to the performing of its functions and fulfilling its responsibilities, the administration also maintains information resources, registers, part of which need to be accessible to the public in order to ensure the freedom of civil and commercial contracting and the exercise of certain rights and regulated activities.

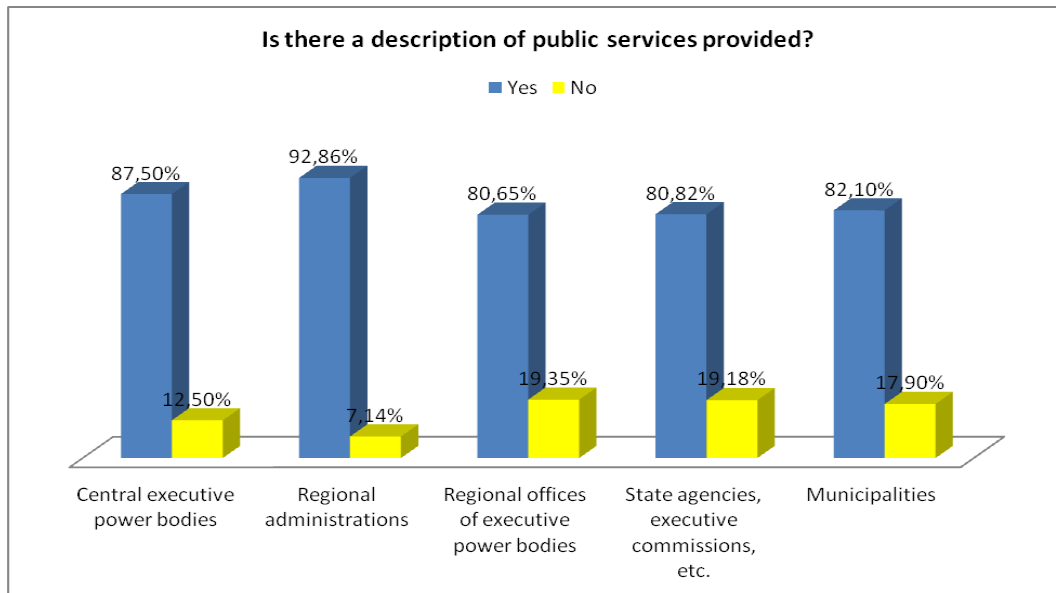
The results from the 2012 February – March audit show that there is not a considerable development in this area. More precisely, the web sites lack a clear description of the legal responsibilities and functioning of the respective authority. There is even a 3% decrease in the level of active disclosure of the legal basis and the functions of the institution, compared to the level of implementation in 2011. On the other hand, the online publication of information about the services provided by a respective institution has increased with 4% and the description of the data bases and the information resources – with 1%, in comparison to 2011.

There is a higher level of implementation of the obligation for online publication of information about the powers, the functions, and the information volumes by the central government bodies, state agencies, commissions, executive commissions, state institutions established by law or by a decree of the Council of the Ministers. The poorest performance belongs to the municipalities (See: Appendix 1 to this Report).





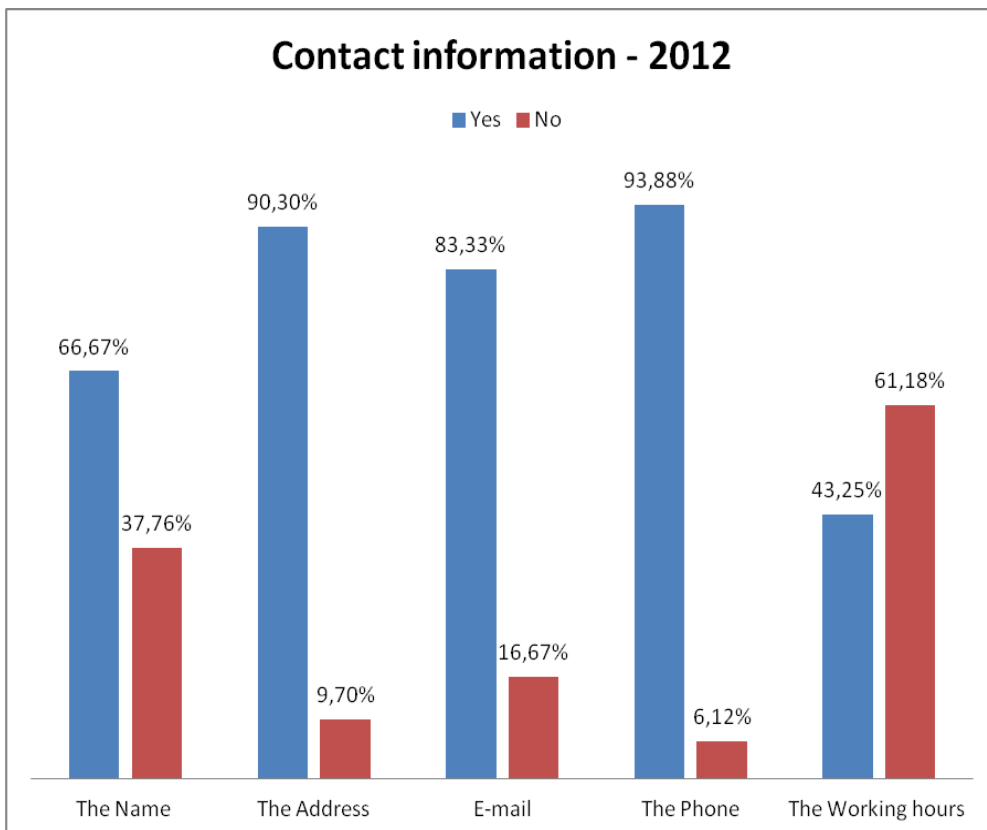
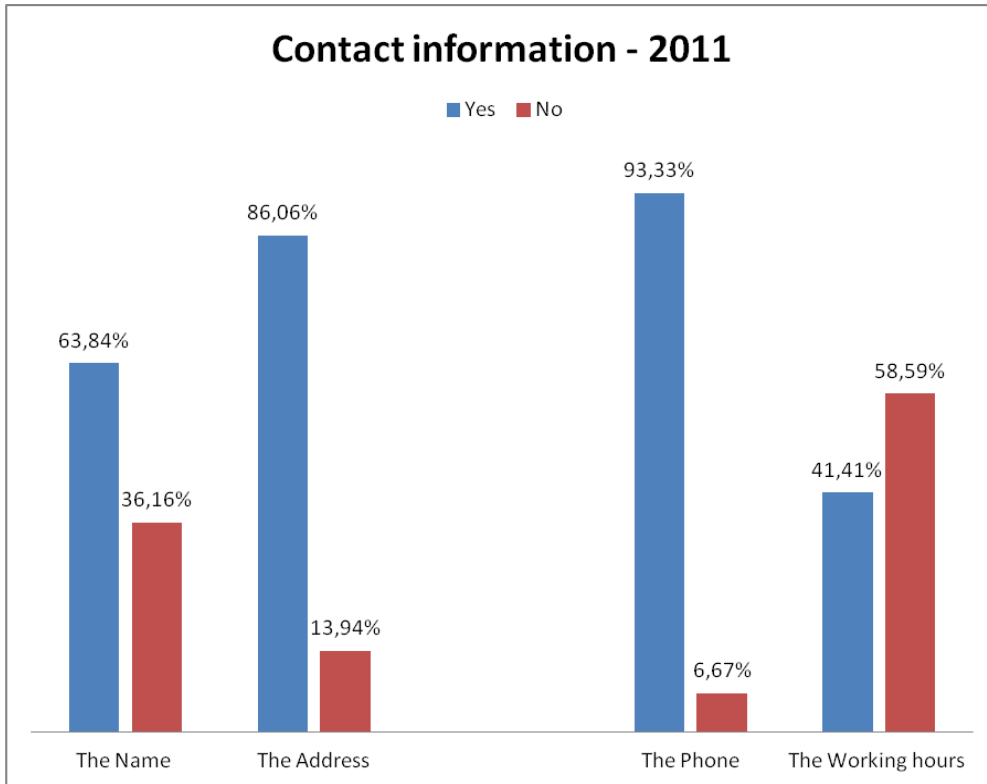
In 2012, the availability of a description of the services provided by the authorities is high at all levels of executive power – central; regional administrations; regional offices of executive bodies; state agencies, commissions, executive commissions, state institutions established by law or by a decree of the Council of the Ministers; the municipalities.



## Organizational Structure and Contact Information

The tendency of increasing online availability of information about the structure of the administration stays stable. Almost 92% of the institutions have published their organizational structure. The level of implementation by the central government bodies is 100%, while there is a 7% increase by the municipalities resulting in 89%.

With regard to the contact information which is undoubtedly necessary for citizens and legal entities when they want to address the public body, the volume of its availability has also increased. The lowest level of implementation, this year again, is with regard to information about the working hours of the institution.

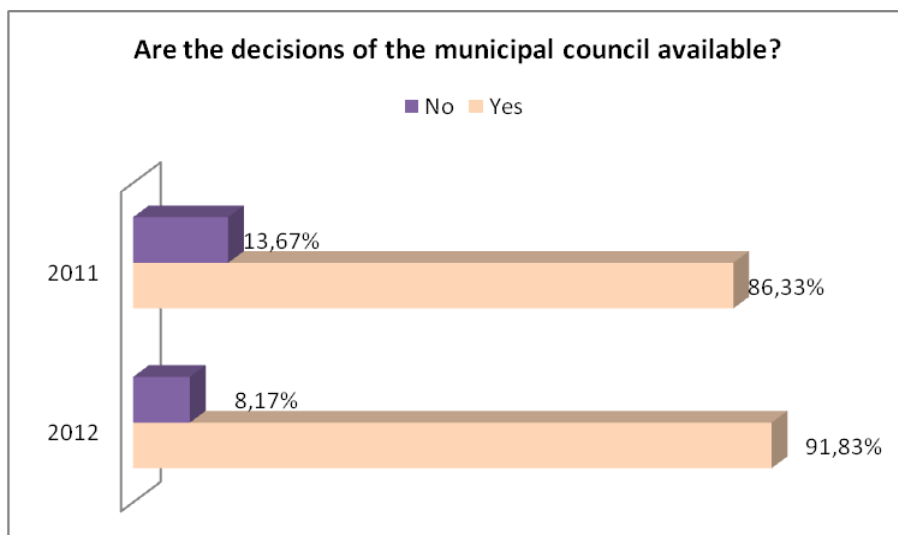




## Operational Information – acts, strategies, plans, activities and reports

The most considerable development with regard to the active disclosure is in the publication of the acts of the public bodies.<sup>20</sup> The APIA establishes the obligation for the publication of lists of acts issued within the implementation of the powers by the heads of the executive bodies. At the same time, much more have been published on the web sites – not just lists, but also registers of the normative and individual administrative acts have been uploaded. A considerable increase in the online maintaining of registers of individual administrative acts is observed – almost 46% of implementation, while in 2011, it was 27%. The highest level of implementation belongs to the municipalities – 55%.

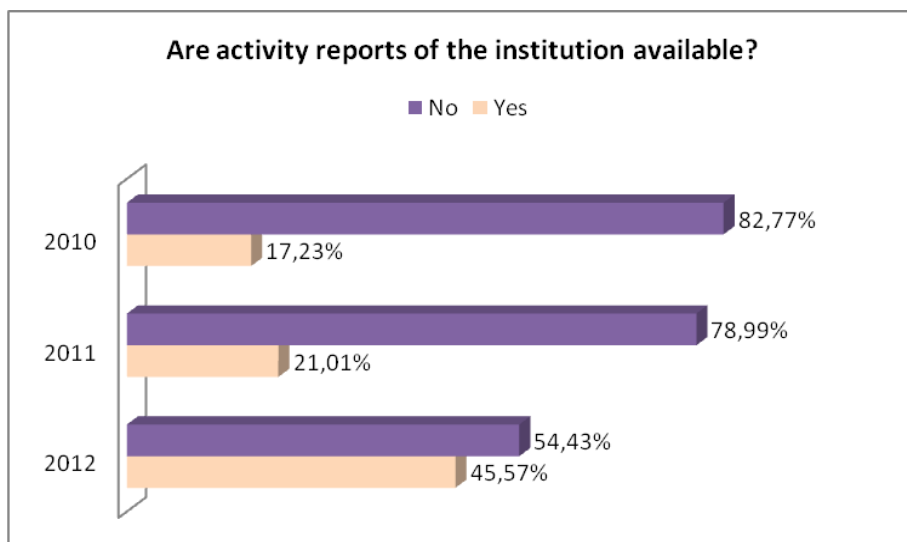
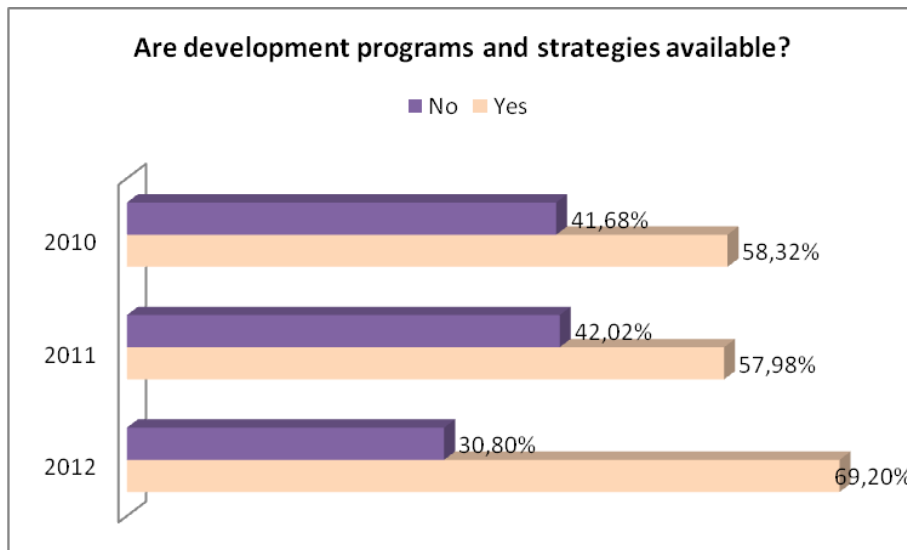
As far as the obligation for publication of the Municipal Council acts in the Internet is concerned, the level of implementation is very high.



We believe that the integration of internal information management systems and the attitude of opening the registers of the normative, general, and individual administrative acts of the municipalities to the public is a big step forward to the operational transparency of the public bodies in Bulgaria.

Development plans and strategies have always been actively and well communicated, in contrast to the activities reports of an institution. This tendency is preserved in 2012 as well, although we have to take in consideration the increase in the activity reports disclosure with almost 24% compared to the 2011 results.

<sup>20</sup> According to Bulgarian general administrative law there are three categories of administrative acts: individual acts are administrative decisions with application to certain individual/individuals; general administrative act is a decision with application to unspecified number of individuals; administrative normative act applies to unspecified number of individuals multiple times i.e. it has the legal character of "rules."



### **Financial and Other Transparency – contracts, budgets and financial reports, conflict of interests declarations**

An important element of the active transparency is the publication of the budget and the financial reports of the public bodies. Moreover, the adoption of the budgets is in its essence a consultative process and includes public discussions, especially with regard to the municipal budgets which implies the participation of the interested parties.

In comparison to the 2011 results, the budget transparency has considerably increased – with 30%. The publications of financial reports have also increased with 20%. 13 ministries have published their budgets, and seven have published their financial reports. 35% of the municipalities have published their budgets, and 24% - their financial reports.



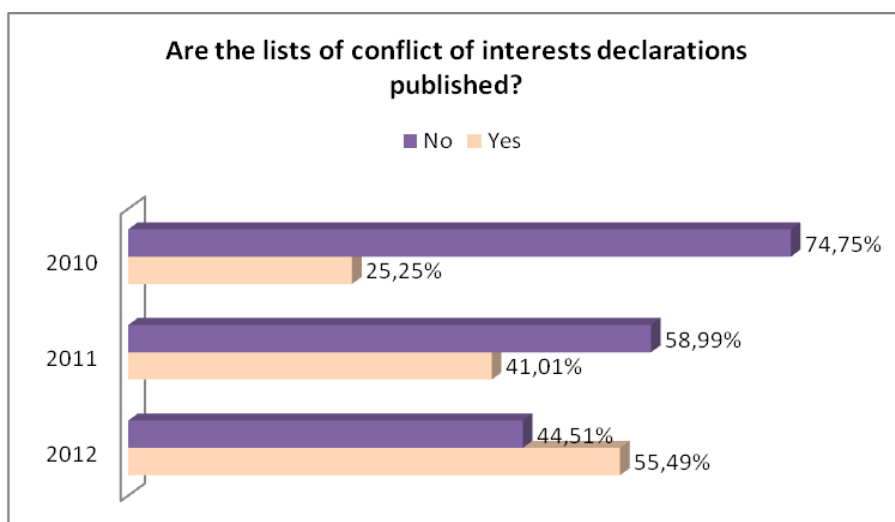
In spite of the considerable increase in the number of administrations which have published their budgets, which is a positive development compared to previous years, half of the administrative structures, including the municipalities, have not yet disclosed this information on their web sites.

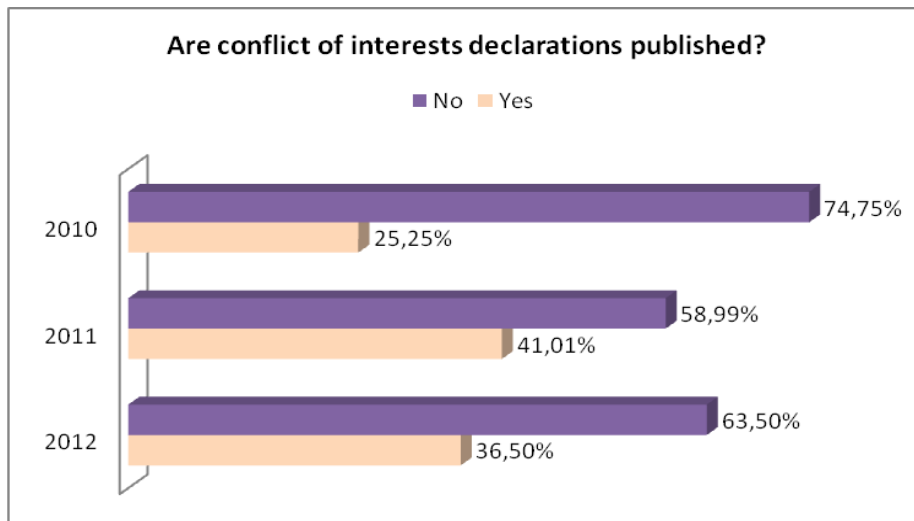
Regarding the transparency of the contracts of the public bodies, this continues to be sensitive information.

In 47% out of all audited Internet sites, a register of the public procurement bids have been published, but only 9% contained information about the contracted public procurements.

AIP experience in providing legal help in specific access to information cases shows that although most of the institutions send the legally required information about the public procurement and concession contracts to the central registers, they resist the provision of the contracts at a request.

With regard to the disclosure of the declarations under Art. 12 of the *Prevention and Determining of Conflict of Interests Act (PDCIA)*, the last year's tendency remains – there is an increase in the disclosure of the lists of officials who have submitted their declarations, but the level of disclosure of the declarations themselves decreases. This apparently is a result of the unclear requirement of Art. 17, Para. 2 of the *PDCIA* that the disclosure of the declarations should be in compliance with the *Personal Data Protection Act* and the subsequent interpretation of the Protection of Personal Data Commission. In some web sites, one can find a single declaration – of the official who has given their consent for the disclosure in the Internet.

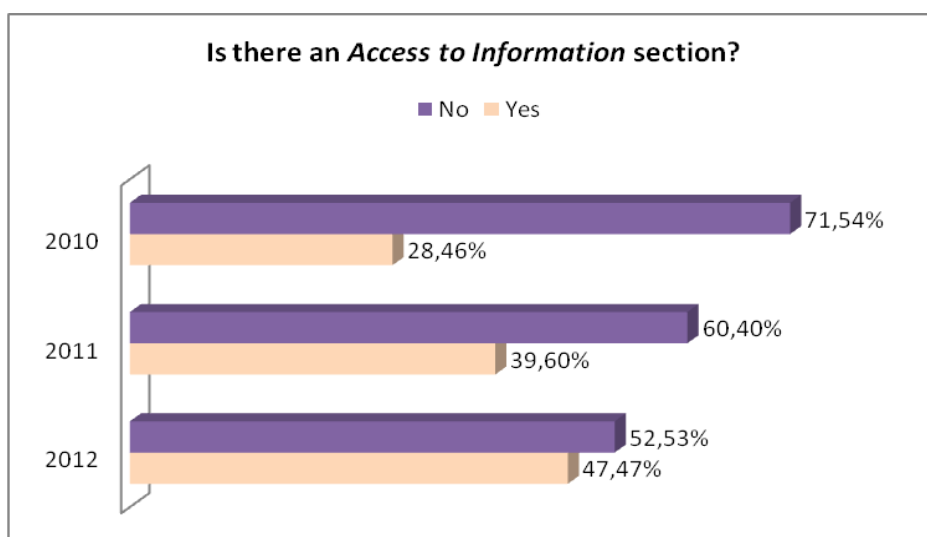




**Access to Information Section**

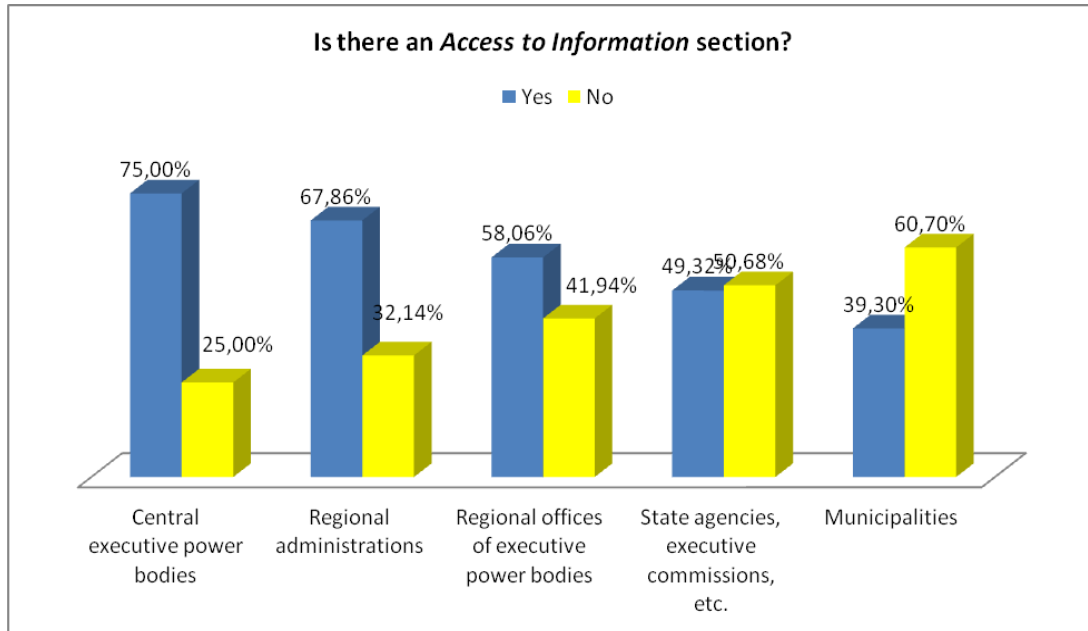
The *Access to Information* section has the purpose to facilitate and assist the requestors or information seekers by clarifying the process within the respective institution and describing the procedure for obtaining access to information, including the procedure for access to the public registers maintained by the authority. The section should also contain the name of the department responsible under the APIA; the official assigned under the APIA; the address, the phone number, and the working hours of the department (See Appendix 1, Charts 56-67). The APIA implementation reports should also be published in the section.

The audit results show that the process of creation of such sections on institutional web sites has been ongoing – the number of institutions having *Access to Information* sections has increased with 8%.





The results differentiated by types of institutions are the following:



Out of the central government bodies, 12 ministries have *Access to Information* sections in their web sites. The content is various. For instance, instead of the APIA implementation annual report, the *Access to Information* section of the Ministry of Justice contains the biannual activity reports of the Inspectorate at the Ministry.

Apparently, there is no correlation between the existence of an *Access to Information* section and the processing of access to information requests. Out of the 12 ministries having *Access to Information* sections, 4 ministries did not respond at all to the access to information request filed within the audit.

**These are:**

Ministry of Justice

Ministry of Regional Development and Public Works

Ministry of Transport, Information Technology, and Communications

Ministry of Labour and Social Policy

**The following ministries do not have *Access to Information* sections:**

Ministry of Interior

Ministry of Economics, Energy, and Tourism

Ministry of Agriculture and Food



### Council of Ministers

With the exception of the Ministry of Economics, Energy, and Tourism, which did not provide the requested information electronically, all other ministries without *Access to Information* sections responded within the legally prescribed timeframe to the request filed within the audit providing information about the public registers maintained and the procedure for accessing them.

The Regional Administrations also create and maintain *Access to Information* sections. In 2012, 19 out of 28 Regional Administrations have sections and all of them responded to the request about the public registers they maintain.

Without sections are:

Regional Administration – Varna

Regional Administration – Vidin

Regional Administration – Kuystendil

Regional Administration – Pazardzhik

Regional Administration – Sliven

Regional Administration – Sofia Region

Regional Administration – Sofia City

Regional Administration – Targovishte

Regional Administration – Shumen (the latter did not respond to the request about the public registers maintained by the institution).

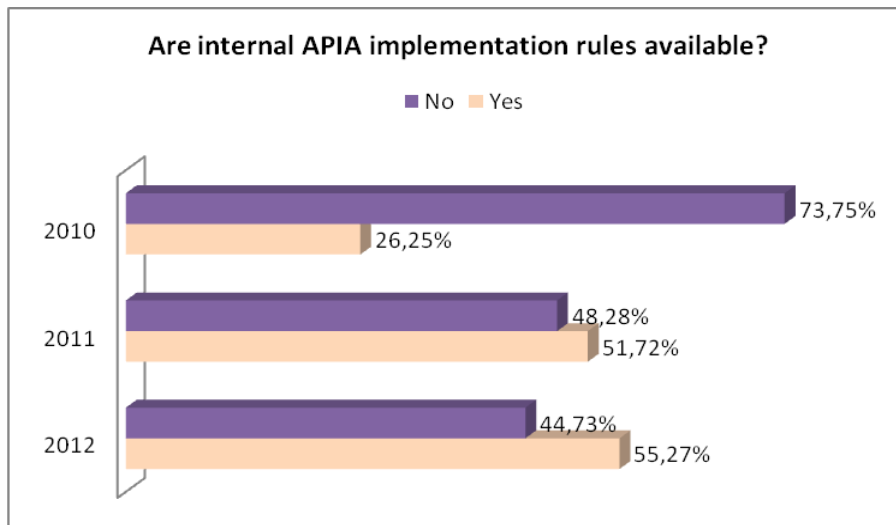
### **Content of the *Access to Information* sections**

One of the most important elements of the section is the Internal Rules for the organization and management of the process for provision of access to information. AIP analysis and the recommendations with regard to the Internal Rules are part of this report.

It has been already mentioned that one of the first recommendations in the Council of Ministers' report *The State of the Administration* from 2011 is the continuation of the development of Internal Rules and explanatory information for the citizens on how to exercise their right of access to information within the respective institution.

The Internal Access to Information Rules have been drafted, adopted and published by a growing number of institutions.





The significance of actively disclosing these rules, however, has not been fully comprehended yet. Only in 67% of the reviewed web sites, the Internal Rules have been published in the *Access to Information* section. In the rest 33%, the rules are either part of the regulations for the work of the administration, or of the *Customer's Charter* and are published in sections which would hardly be found by information seekers not acquainted with the issue.

The percentage of the institutions which have published their APIA implementation reports is still low. Only 16% of the audited web sites contain these reports.

Still low is the percentage of the institutions which have published a description of the procedure for access to the public registers they maintain – 16%. One of the explanations might be that the online maintained registers are available in a separate section on the web site of the institution. However, in a few instances these lists, disclosed in a variety of formats, are accompanied by an explanation about the legal ground for their maintaining and about the procedure for accessing those registers which are not available online.

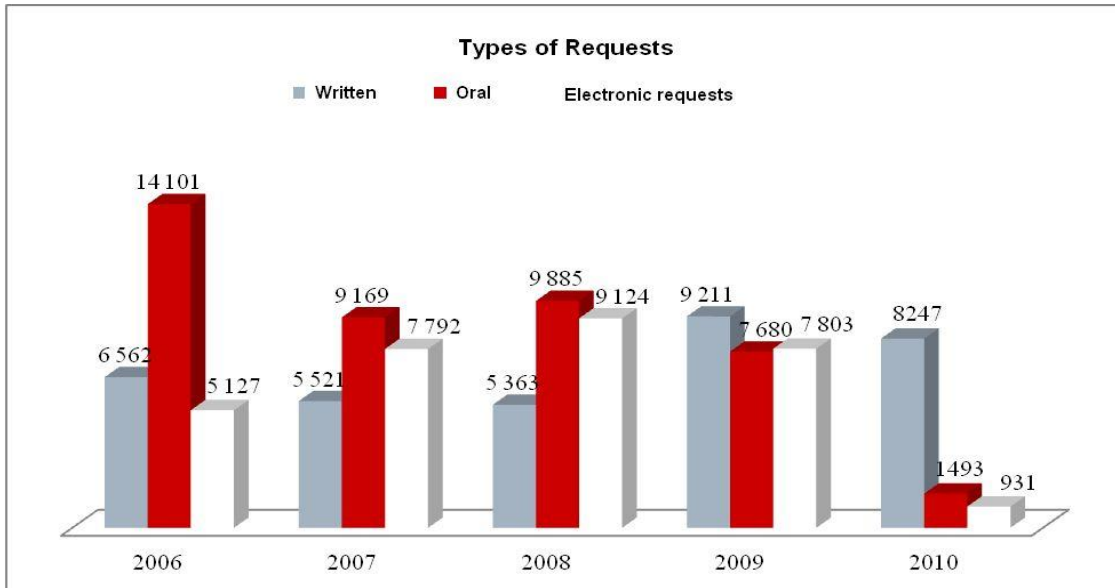
With regard to the obligation for the publication of the name of the department/official responsible under the APIA and their contact information, including the working hours, the situation has gradually been improving (See Attachment 1, Charts 56-67).

### Electronic Requests

In 2012, AIP has filed electronic access to information requests as part of the audit of the web sites of the executive bodies. We have requested information on what public registers does the institution maintain and what is the procedure for access to them. We have presumed that such a request would not be of any difficulty to the APIA responsible official as the information should be published in the *Access to Information* section of the institutional web site. At the same time, it is high time that the procedure for accepting and responding to electronic requests was unified as in the course of several years we have

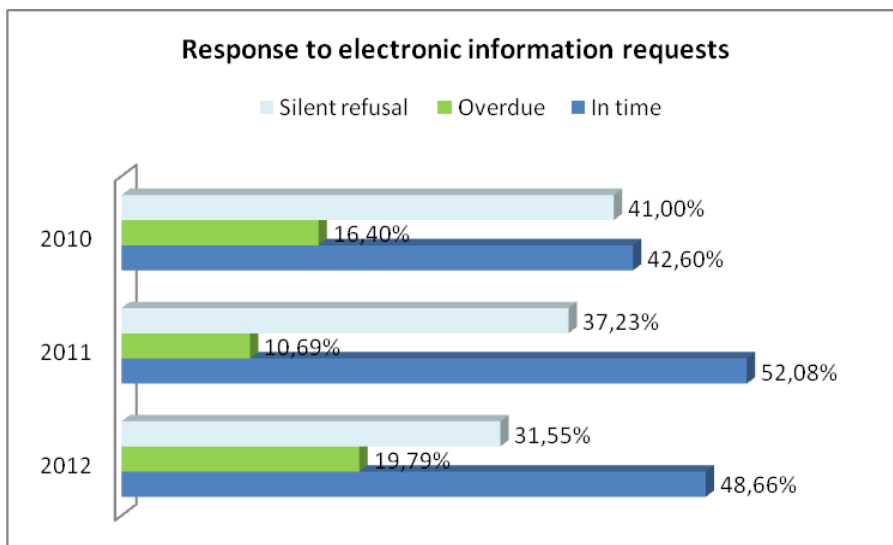


observed different treatment of such requests and practices contradicting the APIA – an electronic signature is required from the persons filing electronic access to information requests. These contradicting practices resulted in the odd tendency of a decreasing number of requests filed electronically simply because no response is given to them. The chart below summarizes yearly data from the reports of the Minister of Administration, the Ministry of Administration and Administrative Reforms, and the Council of Ministers.



The Chart is based on data from the government reports *The State of the Administration 2007-2011*.

Although the percentage of the institutions which have responded to the electronic requests within the audit has increased from 62.77% in 2011 to 68.45 % in 2012, the percentage of institutions which have responded within the legally prescribed timeframe has decreased.





On the other hand, it should be noted that among those which responded to the request for access to public information, there were 13 responses sent within the timeframe but containing decisions for refusals of access to information. The grounds in most of those cases were that the electronic form of provision of information is not provided by the law. This does not correspond to the truth. Especially diligent in the grounding of their refusals were the Mayor of the Municipality of Blagoevgrad and the Director of the Customs Agency.

Such an attitude does not correspond to any strategies for electronic government and open government policies. Citizens have the right to file requests and obtain access to information electronically. The heads of executive bodies should have established the procedure under which this should be done. The procedure should not infringe the right of access to information guaranteed by the law.

In addition, out of all institutions which have responded – 236 in time and 96 overdue – only 273 responded electronically, the others responded by snail mail.

### **Active Transparency Rating of the Institutions Based on the Web Sites Audit Results and the Capacity to Respond to Electronic Access to Information Requests**

In 2012, AIP made a qualitative assessment of the institutional web sites which resulted in the Active Transparency Rating. The capacity of public bodies to process and respond to access to information requests filed electronically, as well as the provision of requested information electronically, was also assessed.

The highest possible result for an institution which has fulfilled all the obligations for active disclosure is 60.5 points.<sup>21</sup> The first 12 institutions which scored above 40 are listed below.

Municipality of Dobrich **52.0**

Ministry of Defense **49.0**

Ministry of Education, Youth, and Science **46.0**

Municipality of Dve Mogili **45.0**

Ministry of Finance **44.5**

Municipality of Gabrovo **43.7**

Regional Inspection of Environment and Waters - Blagoevgrad **43.6**

Municipality of Mezdra **42.7**

National Institute for Conciliation and Arbitration **42.6**

Municipality of Pirdop **42.5**

Municipality of Kozloduy **42.1**

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<sup>21</sup> The Active Transparency Rating of 474 institutions is available in Bulgarian here: <http://www.aip-bg.org/surveys/Рейтинг/202921/>



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### Findings and Conclusions

A great variety in the structure, content and the formats in which the information subject to mandatory online publication is uploaded has been observed. There is no unification of the institutional web sites, with the exception of those of the Regional Administrations and the Regional Health Inspections.

Apparently, few institutions have correlated the process of active disclosure of public information online with the establishment of internal teams whose responsibility is to determine the information mandatory for publication. This conclusion is also drawn on the basis of the review and analysis of the Internal APIA Implementation Rules of a number of public bodies.

A considerable progress is observed with regard to the active disclosure online of the public bodies' administrative acts. The online publication of the decisions of the municipal councils is high. There is an improvement with regard to the disclosure of the budgets, the online availability of registers, the services.

The process of creation of *Access to Information* sections and adoption of Internal APIA Implementation Rules by the public bodies has been ongoing.

There is no unification of the processing of electronic requests and the provision of information via electronic mail.