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State of Play: PSI re-use in Bulgaria

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Abstract

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Bulgarian Civil Society Organisations are traditionally active on Right to Access Information and Anti-Corruption issues. However they just recently start working more on Transparency and Open Data / PSI re-use. New types of PSI re-users such as App Developers have not yet joined forces with more traditional commercial re-users.

The Bulgarian Government does not show pro-active commitment to Open Government and Open Data / PSI re-use. Since Public Sector Bodies in Bulgaria are facing budgetary constraints and a lack of resources, they are, in the short- and medium term, unlikely to improve access to PSI and facilitate re-use of PSI until public demand gets higher.

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1 Introduction

This report aims to give an overview of the state of play for PSI re-use in Bulgaria. It covers the legislative framework surrounding PSI re-use. It spotlights Government policies and practices of Public Sector Bodies. It also highlights cases of PSI re-use both in the private sector as well as civil society activities that have been active around the issue in recent years.

Since the fall of the socialist regime in 1989, Bulgaria has often been at the forefront of legal efforts to provide a legal framework for Access to Information.1 Implementation, however has often lagged far behind. In line with the provisions of European Commission Directive on the re-use of Public Sector Information (PSI), Directive 2003/98/EC, Bulgaria has informed the EC that it has transposed the Directive into its national legislation. On 7 June, 2007, the National Assembly amended the Access to Public Information Act (APIA) of 2000 in order to harmonise it with the PSI Directive.2 The APIA was further amended on 5 December 2008. As outlined by the Civil Society Organisation (CSO) Access to Information Programme (AIP), the amendments introduce:

- ⚲ extended scope of obliged bodies by including the regional offices of the central authorities and bodies financed under EU programs and funds;
- ⚲ the obligation for the provision of partial access to information;
- ⚲ the obligation for proactive publication of information online; and

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1   Puddephatt, Andrew, 2009. Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws: The Cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom

2   For an English translation of the relevant decree, see
http://ec.europa.eu/information_society/policy/psi/docs/laws/bulgaria/en_tra.pdf

⊀ the public interest test.3

CSOs have criticised that in spite of the legal amendments stipulating "the overriding public interest in the application of most of the exemptions to the right of access to information, this principle has not become leading for the administration."4 Rather, it is asserted, the attitude of official bodies is marked by bureaucratic inertia and negligence. Furthermore, "the lack of an overseeing and coordinating body, insufficient regulation of control, practical lack of sanctions for failure to fulfill obligations" are criticised.5

2 Legislative Framework

Since 1999 Bulgaria's administrative structure consisted of 27 provinces and a metropolitan capital province (Sofia-Grad). The provinces subdivide into 264 municipalities. The Bulgarian government functions as a parliamentary democracy within a unitary constitutional republic.

Bulgaria has an industrialized, open free-market economy, with a large, moderately advanced private sector and a number of strategic state-owned enterprises. The World Bank classifies it as an "upper-middle-income economy"6 with a nominal GDP of $10,334 per capita in 2010.

Article 41 of the **Bulgarian Constitution** of 1991 states:

1. *Everyone shall be entitled to seek, receive and impart information. This right shall not be exercised to the detriment of the rights and reputation of others, or to the detriment of national security, public order, public health and morality.*
2. *Citizens shall be entitled to obtain information from state bodies and agencies on any matter of legitimate interest to them which is not a state or other secret prescribed by law and does not affect the rights of others.*

In 1996, the Constitutional Court ruled that the Article 41 of the Constitution gives the right to information to any person but that this right needed to be set out by legislation. There were a number of lower court cases that rejected requests by citizens and NGOs to obtain information from state bodies.

The key document regulating access to information is the **Access to Public Information Act**7, first promulgated in 2000. This has been amended in 2007 and 2008 in order to harmonise it with the EC PSI Directive as well as the 2008 Convention on Access to Official Documents of the Council of Europe. The aim for amending the law in 2008 was to narrow the trade secrets exemptions. It came after corruption scandals which led to freezing EU funds.

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3   http://www.aip-bg.org/apia.htm

4   AIP, 2011. "Access to Information in Bulgaria 2010," Sofia: AIP, p. 5

5   AIP, 2011, p. 6

6   World Bank: Data and Statistics: Country Groups". The World Bank Group. 2008. Retrieved 27 July 2008.

7   http://www.aip-bg.org/library/laws/apia.htm

Other legislation which refer to the APIA are:

- ✦ the Administrative Procedure Code,
- ✦ the Access and Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Armed Services Act,
- ✦ the Electronic Communications Act,
- ✦ the Protection of Classified Information Act (PCIA),
- ✦ the Concessions Act,
- ✦ the Environmental Protection Act,
- ✦ the Public Disclosure of Property Owned by High Government Officials Act,
- ✦ the Organs, Tissues and Cells Transplantation Act,
- ✦ the Territory Planning Act,
- ✦ Black Sea Coast Planning Act and the
- ✦ Personal Data Protection Act.

According to the **Bulgarian Copyright Law**8, §4 the following shall not benefit from the legal protection accorded to copyright:

1. normative and individual acts of state management bodies and official translations thereof;
2. News, facts, information and data.

However it remains unclear to what extend this applies to what kind of PSI.

In 2008, Bulgaria launched an Action Plan approved by the Council of Ministers for implementing the **INSPIRE Directive**, naming the State Agency for Information Technology and

Communications (SAITAC) as the implementing agency, in co-ordination with and the Agency for Sustainable Development and Eurointegration (ASDE). In March 2010 the INSPIRE Directive was transposed in a separate law. According to a 2011 study on the state of play,

> *The objective is to coordinate activities from ministries, regional and local authorities, specific agencies, and organise collaboration with the private sector. Major efforts are made to develop new Datasets which are basic components for the building the INSPIRE oriented Bulgarian SDI. Progress is however slow which is at least partly due to the very fragmented GI-sector which is illustrated by the non*

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8   http://lex.bg/bg/laws/ldoc/2133094401

existence of a single national mapping agency. The major data producers and - in the absence of a user driven coordination body - also coordinators are the military topographic service on the one hand and the Ministries of Regional Development and Public Works and the Ministry of Environment on the other hand.

*Complemented by the efforts of the Ministry of Environment to build environmental information systems to comply with EU-regulations and obligations, the recent and ongoing Cadastral infrastructure project constantly updates mapping data. A future parallel step seems to be the production, availability and accessibility of Metadata. Harmonisation and Standardisation of data as produced by the multiple producers is another urgent issue.*9

3 Implementation of the PSI Directive and INSPIRE

While the PSI Directive has been transposed into national legislation, implementation has lagged behind the letter and the spirit of the directive, according to civil society organisations. In its 2010 Annual Report, AIP lamented the following:

- *Lack of unified practices in terms of active provision of access to information;*
- *Lack of an oversight and coordination body in terms of access to information provision;*
- *Unclear responsibilities regarding the control and the imposition of sanctions for unfulfilled obligations, including online publication of information;*
- *Lack of official policy for permanent trainings of officials responsible under the Access to Public Information Act;*
- *Lack of awareness about the accumulated litigation experience in institutional practices of information provision;*
- *The declared policy of transparency is not bound to budget transparency and more precisely to the transparency of public bodies' contracts.*10

Thus, while the legal framework for PSI re-use exists, a number of practical and structural constraints continue to hamper access to information. More critical, however, are continuing cultures of secrecy in administrative structures. Information on expenditures and impacts of large-scale projects (e.g. nuclear power or road infrastructure projects), for example are kept from the public. The State Auditor has criticised ministries for inaccurate and intransparent reporting of expenditures. A serious example of the degree of intransparency and initial refusal to divulge information to the public has been the case of "donations" received by the Interior Ministry from businesses and individuals, including

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9   Danny Vandenbroucke and Dimitrios Biliouris, 2010, "Spatial Data Infrastructures in Bulgaria: State of play 2010"

10   AIP, 2011

ones with criminal backgrounds.11 A further worrying development in terms of transparency have been pushes by the government to limit access to the public registry of business operations and companies.

4 Does the legal framework support PSI re-use?

Much like other new EU member states, Bulgaria has a modern Constitution and the legislative framework is set to support the re-use of PSI. However, Public Sector Bodies (PSB) in Bulgaria face budgetary constraints and a lack of qualified personnel fort effective PSI re-use. As result of these constraints, Bulgarian PSBs (especially the local-level ones) have strained institutional capacities. As with many other laws, implementation proves to be the missing link due to the limited institutional capacity. Proper legislation is in place but in practice implementation and law enforcement is often not satisfyingly realised.

5 Government Policy

The stance of the current Government to PSI re-use remains unclear. Neither President Georgi Parvanov reelected with 77.3%, nor Prime Minister Boyko Borisov have committed publicly to Open Government / Transparency in general or Open data / PSI re-use in particular.

The **European Innovation Scoreboard 2009**12 by the European Commission Directorate-General for Enterprise and Industry lists Bulgaria in the group of "Catching-up countries," with innovation performance significantly below the EU27 average, but, according to the report, the rate of improvement is one of the highest of all EU countries and it is a growth leader within the Catching-up countries. Relative strengths, compared to the country's average performance, are in Human resources, Finance and support and Economic effects and relative weaknesses are in Linkages & entrepreneurship and Throughput.

The **United Nations E-Government Survey 2010 Leveraging e-government at a time of financial and economic crisis**13, published by the United Nations Public Administration Network (UNPAN) indicates that all of the European Member States are in the top 50 world-wide. With a country rank of 43 Bulgaria is one of the last EU Countries.

According to the Freedom House Survey on **Freedom in the World 2011**14 Bulgaria scores 2 on Political Rights and 2 on Civil Liberties (on scale of 1-7, with 1 representing the highest level of freedom and 7, the lowest). The overall status is considered as "Free".

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11   "Bulgarian Interior Ministry Reveals Suspicious Donations Statistics," http://www.novinite.com/view_news.php?id=129900

12   http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/82

13   http://www2.unpan.org/egovkb/global_reports/10report.htm

14   http://www.freedomhouse.org/images/File/fiw/FIW_2011_Booklet.pdf

In the **Global Integrity Report 2010**15 carried out by the Center for Public Integrity Bulgaria's Overall Rating is "Strong" (84 of 100) The gap between the score for the Legal Framework (97 of 100) and the Actual Implementation (73 of 100) illustrates on of the main challenges for PSI re-use as well. On "Public Requests for Government Information" the score is 90 of 100. According to the report:

> *Although the country continues to demonstrate an impressive commitment to the legal framework that underpins anti-corruption and good governance (no doubt spurred by EU accession requirements), its implementation gap has widened.*

In the **Corruption Perceptions Index 2010** of Transparency International, Bulgaria's score is 3.6 (Relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 - highly clean and 0 - highly corrupt).

The **World Bank Indicators for Good Governance**16 indicate that there is space for improvement for Bulgarian Government and Administration. (Percentile rank - indicates rank of country among all countries in the world. 0 corresponds to lowest rank and 100 corresponds to highest rank.)

1. Voice and Accountability: 65.9
2. Political Instability and Violence: 58.9
3. Government Effectiveness: 58.3
4. Regulatory Quality: 73.4
5. Rule of Law: 51.2
6. Control of Corruption: 52.2

6 Public Sector Bodies (PSBs)

Since 2004, there has been an increasing focus on e-government in Bulgaria. Bulgarian state administration consists of the central government, 28 provinces and 264 municipalities. In 2011, the CSO AIP reviewed 495 websites out of a total of 516 institutions (21 institutions did have official web sites) at the central, regional (provincial), and local levels. According to the organisation, the information provided varied greatly in terms of quality and quantity and presentation was often confusing, or, in the more direct terms used by the organisation: "a chaotic variety."17

The National Statistical Institute18 offers a wide range of data in a Mix of XLS, PDF, and HTML formats. The data is currently not available for bulk download and the copyright statement limits re-use significantly so it can not be considered open data.

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15   http://www.globalintegrity.org/report/Bulgaria/2010

16   http://info.worldbank.org/governance/wgi/sc_country.asp

17   "Audit of Bulgarian Websites Finds Chaotic Variety,"
http://www.freedominfo.org/2011/05/audit-of-bulgarian-websites-finds-chaotic-variety/

18   http://www.nsi.bg/Index_e.htm

According to Bulgarian CSO representatives interviewed for this report, the Bulgarian parliament has been exemplary in its positive approach to PSI. The Ministry of Finance also was ranked positively in terms of access to budgetary data by PSI activists interviewed. Another example for making available PSI is Sofia Municipality19 such as urban planning and maps, registers of municipal property, transactions of such property and building licenses) and the Council of Ministers20 which in 2009 opened its database with decisions and records (steno grams) of Cabinet meetings.

It is worth noting that one of the richest data resources on Bulgaria is probably to be found on the World Bank's Data Catalogue21 rather than national sites.

7 Private Sector PSI re-users

One of the main re-users of PSI in the Bulgarian private sector are providers of legal information systems which commercially offer non-copyrighted laws on the market. Census data and other statistical data provided by the National Statistical Institute are also used commercially. As in other EU Member States the biggest PSI related markets is the geographical and satellite data market offering maps and navigation systems.

The **Agency of Geodesy, Cartography and Cadastre** (AGKK) is a state institution, through its regional offices across the country (SGKK) provide citizens with documents and information from cadastral maps. It offers both free and paid services. The fees are defined in the Tariff № 14 for the fees collected at the Works and the regional governors22. As a service provider of geospatial data it is in competition with several private sector companies, such as:

NAVITEQ23 builds full geospatial database for the territory of Bulgaria. NAVITEQ offers professional GNSS services and equipment. We develop a detailed geospatial database of Bulgaria and our own specialized software for working with GPS and creating digital maps. We offer fully integrated navigation solutions - GPS (NDrive) devices and software based on NAVITEQ digital map.

DATECS GIS Center24 is one of the leading outsourcing companies in Europe, serving European Union clients with High-Quality and Low-Cost services in the fields of GIS/Mapping data conversion services, multilingual data entry and software development of GIS/Mapping applications and Internet solutions. DATECS GIS Center provides and supports a wide range of digital maps and specialized GIS databases of Bulgaria, Sofia and other big cities in scale 1:5 000 (for all cities in Bulgaria) and 1:100 000 scale (whole

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19   http://www.sofia.bg/en/index_en.asp

20   http://www.government.bg/fce/index.shtml?p=0023&s=001

21   http://data.worldbank.org/country/bulgaria

22   http://www.cadastre.bg/podzakonovi-normatveni-aktove/tarifa-14-0

23   http://www.naviteq.net/en

24   http://gis.datecs.bg/data.asp?language=en

country).

8 Civil Society & other PSI re-users

Bulgaria has a number of very active and professional operating Civil Society Organisations such as Access to Information Programme (AIP)25, the Bulgarian Lawyers for Human Rights26, the Bulgarian Helsinki Committee27, the USAid Bulgaria Open Government Initiative Project28, the Open Society Institute - Sofia29 and Transparency International Bulgaria30

Among their engagement for Civil Rights and Human Rights most of these CSOs are active on Anti-Corruption while AIP is focusing on Freedom of Information (FOI) issues also helping other CSOs with FOI advice when they need information to do their specific activities. Until recent little activity was in the direction of Open Data and PSI re-use.

The Access to Information Program (AIP) works since 1996 to promote the right to access government held information and government transparency. It monitors yearly the law and practice connected with access to information and its restrictions and advocates for necessary changes (11 reports). AIP holds a permanent public campaign for awareness on access to information involving handbooks, website, online newsletter, blog and facebook account, media publications and positions, organization of annual Right to Know Day celebration. As a result 45 % of the population above 18 knows about the Access to Information Act compared to the number few years ago. Legal advice is significant part of AIP work where more than 4,000 consultations were provided and 200 FOI court cases represented. AIP did a lot of trainings of public administration, judges, journalists and NGOs. It is active also in anti-corruption, personal data protection, freedom of expression, PSI, state secrets' policy.

The Association of European Journalists - Bulgaria (AEJ-Bulgaria) has announced to launch a first **Open Data Platform**31 in Bulgaria in December 2010 with the goal to help journalists and civil society organisations in their research and investigations.

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25   http://www.aip-bg.org/

26   http://www.blhr.org/en/

27   http://www.bghelsinki.org/en/

28   http://bulgaria.usaid.gov/anti-corruption/page.html

29   http://www.osf.bg/?cy=100&lang=2

30   http://www.transparency.bg/en/

31   http://www.aej-bulgaria.org/en/2010/12/aej-bulgaria-launches-a-platform-for-open-data/

The Open Databases include different types of statistical information, sociological analyses, lists and maps, which can be linked and analysed for the purposes of the investigative work of the journalists in Bulgaria. All of the data provided by the administration which shows the results of the central and local governance in practice is of special importance.

The **OpenCamp**32 Sofia on June 4th and 5th 2011 in Sofia Bulgaria brought together about 70 people from various backgrounds (civil servants, coders, entrepreneurs, activists, politicians, journalists) got together to discuss open government, open government data, as well as open source and open standards. The ePSIplatform publicly supported the initiative being represented by Ton Zijlstra who gave a keynote and helped explain the European context. This is part of the ePSIplatfroms team to strengthen the contacts with PSI re-user communities throughout Europe.

Access to several data sources that were mentioned need to be negotiated as well as paid for. Others reported of long legal procedures to make sure that departments acted upon a FOIA request. At the same time many of the participants were relatively new to the concept of open government data, and the distinction with public data or information.

On Saturday 4th June 2011 an **Open Data Hackday**33 was organised by the Open Knowledge Foundation and local coders to create a list of Bulgarian government data sources. The Result was a first mapping of Bulgarian PSI sources34 such as Legislation, Finances, Transport and Geodata.

Software developer Boyan Yurukov opened up35 the previously non-open Data36 of the **Bulgarian Parliament** in a machine processable XML stream37. Peio Popov compiled this information into a set of FAQ on the Bulgarian parliament.

Peio Popov is working on a Budget Data from Bulgarian Ministry of Finance. The Data has been scraped and transformed into an open data package38 and is now been used in the beta version of a Budget Transparency Project called Open Spending39 that visualises the **Bulgarian Budget** and makes it assessable as raw data. Popov also released other visualisations of the Budget40.

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32   http://www.epsiplatform.eu/news/news/impressions_from_opencamp_sofia

33   http://notebook.okfn.org/2011/06/06/open-data-workshop-in-sofia-bulgaria-4th-june/

34   http://wiki.ckan.net/Bulgaria

35   http://ckan.net/package/open-data-of-the-bulgarian-parliament

36   http://ckan.net/package/bg-parliament

37   http://parliament.yurukov.net/index_en.html

38   http://ckan.net/package/bg-budget

39   http://sandbox.openspending.org/dataset/bg-budget

40   http://peio.org/bgbudget/bubbles/bgbudget.html

The **Civil Society Index**41 (CSI) carried out by the Open Society Institute and the CIVICUS research team concludes with a rather pessimistic view on civil society engagement in Bulgaria:

> *Civil Society in Bulgaria: Citizen Actions Without Engagement. Of the 5 dimensions that were used to assess Bulgarian civil society, civic engagement scored the lowest with 40.5% out of 100. This would seem to present a continuing challenge for civil society in the country, as the dimension had a low score in the previous CSI report. The Bulgaria report raised issues such as low levels of participation in CSOs, low perceived impact of CSOs in Bulgarian society as well as low levels of trust in public institutions as some of the challenges that CSOs face in Bulgaria. Corruption was raised as one of the issues that cause citizens to have low levels of trust in public institutions.*

A serious concern in Bulgaria has been corruption, including in the context of EU funding mechanisms.42 A recent initiative by the European Initiative Foundation in Sofia is seeking to address this through increased transparency and publicly available information.

9 Public opinion & Media

Though there is general support for increased transparency in Bulgarian society, there is no major societal push for increased and improved access to PSI. CSOs have given PSI training to media representatives but the general level of investigative journalism was seen by respondents as being low.

There is an active Civil Society with numerous well established NGOs promoting Government Transparency, Accountability and Anti-Corruption. Their activities, projects and campaigns often prove to attract media attention very well and so they play a significant role in the public debate.

10 Conclusions

While Bulgarian legislation and civil society demands for access to information have historically been at a high level and the current legislative framework, which has been brought into line with EU legislation, is supportive of PSI re-use, problems remain. The public sector is facing severe financial and human resources constraints. These have impeded implementation, as have also institutional inertia and a lack of clear, pro-active government policies on the issue.

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41   http://osi.bg/downloads/File/civil_society_in_bulgaria_final.pdf

42   http://www.transparency.bg/

Private sector re-users have mostly been more traditional re-users, but new re-users such as App Developers may soon enter the market. While CSOs working on the issue are active on PSI-themes, general public and media demand for increased access to PSI has been limited.

About the Author

Daniel Dietrich, born 1973 in Frankfurt, Germany. His academic work surrounds political science, computer science and communication science in Frankfurt and Berlin. He works as Research Associate at Technical University Berlin, Department of Internet and Society. He is working part-time for the Open Knowledge Foundation (OKF), since 2009. He is the official representative and the Chairman of the German Chapter of the Open Knowledge Foundation. I am the Project Coordinator for the OKF Project Open Definition as well as the Coordinator of the Working Group on Open Government Data and the Working Group on Open Data in the EU. He is also co-founder and Chairman of the Open Data Network, a non-profit advocacy organisation to promote the Open Data, Open Government and Transparency in Germany and beyond. In 2011 he became Editor of the ePSIplatform.

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