

## ENHANCING CIVIC ACTIVISM THROUGH THE RE-USE OF PUBLIC INFORMATION

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### INTRODUCTORY REMARKS

The new quality of democratic government finds its expression in a formation of individual rights and freedoms which not only fully enables individual self-realization at different levels of physical and mental existence, but also shifts the balance in the present model of the relationship between public authorities and citizens. What characterizes the new paradigm is the increasingly deeper involvement of citizens in various processes of decision-making, co-governing and co-managing the common good. In this context, the relationship between the individual and the government is determined by the normative content of individual rights and freedoms. In the framework of a domestic legal system, the national law, and in particular the constitutional law, defines the legal status of the individual and also delimitates the legal actions of public authorities. It also determines situations when the individual may expect certain conduct on the part of a public authority.

These characteristics allow us to differentiate the various functions of constitutional guarantees of individual rights and freedoms. The first function aims to protect individuals against any excessive interference by the government and its officials, or against any interference which is contrary to the essential core of constitutional rights and freedoms. The second aims to protect individuals against interference by other individuals and other subjects of law. The third function corresponds with the government's duty to establish generally accessible and effective procedures to secure individuals' rights, as well as claims and entitlements stemming from these rights<sup>1</sup>.

The aforementioned functions may be called 'classic guarantee functions of individual rights and freedoms'. Yet there is also one additional function, which aims to enable the individual to co-govern and co-manage the public sphere through various activities. This is the activating function.

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<sup>1</sup> Wiktor Osiatyński, *Wprowadzenie do pojęcia praw człowieka* (Szkoła Praw Człowieka. Teksty wykładów 1998) 18–19.

It envisages such legal institutions and solutions that legitimize an active approach on the part of citizens (the community) towards the government (the state apparatus) in the form of:

- voting, including all franchise rights, as well as the right to initiate and organize referenda, the right to participate in public consultations, the right to petition and the freedom to organize and associate;

- information, defining the limits of the freedom to acquire and disseminate information, and in particular the right to access public information. With regard to this form of activity, the law must define who the holder of such rights is and who is the obliged entity, as well as the exact scope of these rights and duties. It helps to eliminate the leeway and arbitrariness of interpretation that characterizes areas free of state regulation;

- oversight, enabling citizens to effectively exercise their rights to oversee organs of the government and office holders;

- co-operation, covering the areas of decision-making and managing the common good;

- learning, enabling all interested parties to know the methods and consequences of decision-making in the public sphere. It helps to understand various mechanisms characterizing the functioning of the state apparatus, the nature of the state and the scope of duties of public officials;

- education, affirming the fundamental principle of democratic government - openness and transparency - and the system of public values such as truth, fairness, tolerance, honourable conduct of state representatives, diligence and effectiveness of public institutions.

The right which encompasses the greatest portion of the aforementioned elements is the right to access public information stipulated in Article 61 of the Constitution of the Republic of Poland (hereafter: the Constitution)<sup>2</sup> and specifically regulated in the Access to Public Information Act (hereafter: APIA)<sup>3</sup>.

The bill amending the APIA of 16 September 2011<sup>4</sup> introduced the first important changes into the APIA<sup>5</sup> and implemented Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information<sup>6</sup>. It expanded the activating function of the right to access public information, as it also encompassed the economic (commercial) aspect of using public information in the possession of various public sector bodies and other obliged entities.

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<sup>2</sup> Constitution of the Republic of Poland, adopted on 2 April 1997 (Journal of Laws 1997, no 78, item 483).

<sup>3</sup> Access to Public Information Act of 6 September 2001 (Journal of Laws 2001, no 112, item 1198 as amended).

<sup>4</sup> Act on amendments to the Access to Public Information Act and to several other acts of 16 September 2011 (Journal of Laws 2011, no 204, item 1195).

<sup>5</sup> The APIA had previously been amended on five occasions, but all these amendments were minor.

<sup>6</sup> Directive 2003/98/EC of the European Parliament and the Council of 17 November 2003 on the re-use of public sector information [2003] OJ L 345/90.

## I. THE ESSENCE OF THE CONSTITUTIONAL RIGHT OF ACCESS TO PUBLIC INFORMATION

The right to access public information was introduced in Article 61 of the Constitution. Since it was located in Chapter II (“Freedoms, Rights and Obligations of Persons and Citizens”), it can be assumed that the reasons behind the constitutionalization of this right were twofold. Firstly, the aim was to empower individuals, who ceased to be treated as passive recipients of information and to provide the right to actively and continuously seek and obtain information concerning public organs and officials. Secondly, the right was designed to solidify the foundations of civil society and effective governance practices, whereby citizens not only co-participate in executing public services, but also encourage ‘public authorities to adopt an active attitude’<sup>7</sup> with regard to providing information<sup>8</sup> and to allow the society to participate in decision-making processes in an informed manner.

A closer look at Article 61 of the Constitution allows us to define the scope of the rights provided therein<sup>9</sup>. It encompasses access to information about the activities of public authorities, as well as on persons discharging public functions. It also includes obtaining information about the activities of self-governing economic or professional bodies, alongside other persons and organizational units related to the field in which they perform their public duties and manage communal assets or property of the State Treasury (Article 61 para 1 of the Constitution).

The constitutional provisions also contain more specific regulations of the rights conferred on individuals. The general right to obtain information in the Constitution encompasses the right to access documents and to attend sessions of collective bodies of public authority appointed by way of universal elections, with the opportunity to make sound and visual recordings (Article 61 para 2 of the Constitution). These rights are to be limited only on the basis of statutory provisions intended to protect the freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State (Article 61 para 3 of the Constitution).

Such a broad scope of constitutional regulation allows for specifying what is to be freely accessed (the objective scope), who is obliged to provide this information (the subjective scope), and what the conditions are for limiting the right to access information. However, from the sum of these elements, it can be inferred that Article 61 of the Constitution contains a

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<sup>7</sup> See also Wojciech Jakimowicz, *Publiczne prawa podmiotowe* (Zakamycze 2002) 174; Jerzy Ciapała, ‘Konstytucyjna regulacja praw podmiotowych. Podstawowe konsekwencje dla ustawodawcy’ in Jerzy Ciapała, Kinga Flaga-Gieruszyńska (eds), *Prawa podmiotowe. Pojmowanie w naukach prawnych. Zbiór studiów* (Szczecin 2006) 43.

<sup>8</sup> Mariusz Jabłoński, ‘Społeczeństwo obywatelskie a konstytucyjne prawo dostępu do informacji publicznej’ in Ewa Gdulewicz, Halina Zięba-Zalucka (eds), *Dziesięć lat Konstytucji Rzeczypospolitej Polskiej* (Rzeszów 2007) 89. On the concept of information and the relation between information and data as well as the nature of contemporary information processes, see Paweł Fajgielski, *Informacja w administracji publicznej. Prawne aspekty gromadzenia, udostępniania i ochrony* (Wrocław 2007) 13–18.

<sup>9</sup> On the constitutional differentiation between rights and freedoms, and on the nature of rights (including the right to access public information), see Ciapała (n 7) 26.

sufficiently concretized subjective right<sup>10</sup>. This assumption is affirmed in the judgement of the Constitutional Tribunal, which held that the essence of this right rests in “the duty imposed primarily on public authorities to grant citizens access to certain information on the activities of institutions”<sup>11</sup>.

On the statutory level, the APIA specifies the scope and nature of rights established by the Constitution. It confers upon anyone, which means not only a citizen, but also a foreigner and any other subject of law (including organisational entities without legal personality) the right to:

- continuously access public information in Public Information Bulletins (hereafter: PIB) without submitting a request (Article 8 APIA);
- access public information not provided in a PIB subject to the request procedure (Article 10 para 1 APIA);
- request, orally or in writing<sup>12</sup>, access to public information (Article 10 para 2 APIA);
- obtain public information without showing any legal or other interest (Article 3 para 1 subpara 1 APIA in conjunction with Article 2 para 2 APIA);
- obtain processed information (Article 3 para 1 subpara 1 sentence 2 APIA);
- freely disseminate public information as obtained;
- have insight into official documents (Article 3 para 1 subpara 2 APIA in conjunction with Article 6 para 2 APIA);
- attend sessions of collegial public bodies appointed by way of universal elections, as well as organs of auxiliary local government bodies and their collegial auxiliary organs (Article 3 para 1 subpara 3 APIA in conjunction with Article 18 and 19 APIA);
- obtain without undue delay, in oral or written form, public information containing current knowledge about public matters (Article 3 para 2 APIA in conjunction with Article 10 para 2 APIA);
- obtain access to public information free of charge, except when the entity obliged to provide information incurs additional costs related to the method of providing access to information defined in the request or the necessity to transform information into the form specified in the request (Article 7 para 2 APIA in conjunction with Article 15 APIA);
- copy public information (Article 12 para 2 subpara 1 APIA);
- obtain printouts of public information (Article 12 para 2 subpara 1 APIA);

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<sup>10</sup> On the right to access public information as a subjective right, see Michał Bernaczyk, Mariusz Jabłoński, Krzysztof Wygoda, *Biuletyn Informacji Publicznej. Informatyzacja administracji* (Wrocław 2005) 18-20; Michał Bernaczyk, *Obowiązek bezwziostkowego udostępniania informacji publicznej* (Warszawa 2008) 23; Wojciech Sokolewicz, ‘Komentarz do art. 61 Konstytucji RP’ in *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, vol. III (Warszawa 2003) 4; Agnieszka Piskorz-Ryń, ‘Czy prawo do uzyskania informacji od władz administracyjnych jest publicznym prawem podmiotowym’ in *Administracja i prawo administracyjne u progu trzeciego tysiąclecia* (Łódź 2000) 379.

<sup>11</sup> Judgment of the Constitutional Tribunal of 20 March 2006, K 17/05.

<sup>12</sup> There is no legally prescribed template for a request. A request can be submitted electronically, even without a certified electronic signature.

- request public information to be sent (Article 12 para 2 subpara 2 APIA);
- request public information to be transferred into an appropriate, commonly used data storage medium (Article 12 para 2 subpara 2 APIA);
- obtain public information without undue delay (Article 13 para 1 APIA);
- withdraw or change a request after receiving notification about the fee related to additional costs of providing access to information (Article 15 para 2 APIA);
- obtain information within the legally prescribed time period, even if the request involves additional costs of providing access to information (Article 15 para 2 APIA);
- lodge an appeal against a refusal to grant access to information (Article 16 APIA);
- request re-consideration of a case when an obliged entity other than a body of public authority has refused to provide information (Article 17 para 2 APIA);
- prompt consideration of a case in pursuance to the Act on Proceedings Before Administrative Courts (Article 21 APIA).

The legislator also specified the entity obliged to provide access to public information; albeit the stipulation contained in Article 4 paras 1-2 is only exemplary, which can be inferred from the phrase ‘in particular’ in para 1. Hence, the provision does not contain an absolute and exhaustive enumeration of the obliged entities. The lack of an enumerative catalogue of obliged entities means that each request for access to public information needs to be interpreted on a case-by-case basis, taking into consideration the nature of the activities performed by the addressee of the request. However, the qualification of certain categories of entities (such as bodies of public authority and related institutions referred to in Article 4 para 1 subpara 1-4 APIA and Article 4 para 2 APIA) as obliged entities does not raise any doubts.

However, in Article 4 para 1 subpara 5 APIA the legislator chose to specify the obliged entities through a mechanism that is entirely different from the one used in the Constitution. This is so because the aforementioned provision lists ‘entities representing other persons or organisational units which perform public functions **or** [emphasis added – M.J] dispose of public property (...)’ among the obliged entities. In this way, only one of the above criteria needs to be met in order to qualify an entity as one obliged to provide access to public information. Clearly, the legislator has broadened the catalogue of potentially obliged entities in comparison to the catalogue included in the Constitution (the drafters of the Constitution assumed that an obliged entity should fulfil both of these criteria simultaneously). In practice, the APIA not only specifies the procedure by which public information can be accessed, but also modifies the catalogue of entities that are potentially obliged to provide public information in Article 4 APIA<sup>13</sup>.

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<sup>13</sup> Nonetheless, the legislator emphasized the informational duty imposed on economic self-government bodies, professional associations, trade unions and employers' associations that are representative according to the Tripartite Commission for Social and Economic Matters and Regional Commissions for Social Dialogue Act of 6 July 2001 (Journal of Laws, no

The exercise of rights guaranteed by the APIA primarily serves informational purposes, *id est* to obtain information understood as information concerning public matters (Article 1 para 1 APIA). Hence, it is the responsibility of the obliged entity to provide access to information in such a way that it does not violate legally-established confidentiality, the privacy of individuals or trade secrets of enterprises (Article 5 paras 1-2 APIA).

Undoubtedly, the process of obtaining information based on the APIA serves the aims of learning and oversight. It allows for verification of the proper functioning of the broadly-defined state apparatus, as well as of administrating bodies that participate in various organizational forms in the implementation of public tasks. Another effect of obtaining certain information is achieving educational goals. Every interested party, as a stakeholder in public governance, is able to gain access to public documents, which in turn can be subjected to public review and later result in the initiation of a public audit (or even lead to criminal indictments). It is also important that information can be freely disseminated. In this regard, the individual (subject) obtaining public information can freely disseminate it, while taking advantage of his or her constitutionally guaranteed freedom of communication (Article 2a para 2 APIA in conjunction with Article 54 para 1 of the Constitution).

Currently, the nature of access to public information goes beyond the scope designated by the Constitution in Article 61. Amendments to the APIA have significantly extended the scope of the right to access public information, although the constitution's drafters hardly foresaw such developments.

## II. RE-USE OF PUBLIC INFORMATION –LEGISLATIVE SOLUTIONS

Under the AIPA, individuals, legal persons and entities without legal personality enjoy the right to re-use public information (Article 23a para 1 APIA). This provision offers a more detailed catalogue of entitled subjects than that contained in Article 2 para 1 and Article 2a para 1 APIA, and in this regard it eliminates the previous imprecise formulations.

The object of such re-use is public information (in whole or in part) held by any obliged entity or institution, regardless of its medium (written on paper, stored in electronic form, or as a sound, visual or audio-visual recording), for commercial or non-commercial purposes other than the primary public purpose of use for which the information was produced.

At the same time, the legislator has specified the entitlements of the applicant, indicating the right to:

- re-use public information unconditionally and free of charge (Article 23b para 1 APIA)<sup>14</sup>;

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100, item 1080 as amended), as well as on political parties (Article 4 para 2 APIA). For more see Bernaczyk, Jabłoński, Wygoda (n 10) 138-158.

<sup>14</sup> However, it must be emphasized that the obliged entity can determine the conditions for the re-use of public information regarding: the necessity to inform about the source, the time when information was created and acquired from the obliged entity, as well as this entity's obligation to grant further access to information in its original form to other users

- re-use public information included by the obliged entity in a Public Information Bulletin without submitting a request<sup>15</sup> (Article 23g para 1 subpara 1 APIA);
- re-use public information posted by an obliged entity on the website of the Central Repository<sup>16</sup>;
- receive conditions (licence) for the re-use of public information (Article 23h para 1 subpara 2 APIA);
- submit a request for conditions for the re-use of public information in case of its prior acquisition<sup>17</sup>;
- determine the manner of use of public information which falls under the definition of a work in accordance with the Copyrights and Related Rights Act or a database in accordance with the Database Protection Act, which permits the use of a work or database for commercial and non-commercial purposes, to copy them or distribute in full or in part, as well as to make modifications and distribute derivative works (Article 23b para 3 APIA);
- obtain public information for re-use under the same conditions as those specified for other applicants, provided that the circumstances are similar (Article 23d para 1 APIA);
- obtain information in a data format, communication and encryption protocol which is readable in accordance with the Computerization of Entities Performing Public Services Act<sup>18</sup> (Article 23f para 1 APIA),
- obtain non-confidential information about factors that are taken into account when calculating fees for atypical requests for the re-use of public information, and the legal remedies available in case of a refusal to provide information for the re-use or determine the conditions of such re-use and associated fee (Article 23h para 1 subparas 3-4 APIA).

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(Article 23b para 2 APIA). There is a possibility to impose a fee if the preparation of information in the way indicated in the application leads to additional costs. When imposing the fee, the obliged entity includes the costs of preparing and transmitting public information in a particular way and form, as well as other factors arising in cases of unusual requests, particularly if they may affect the cost or time needed to prepare and provide the requested information. The total fee cannot exceed the sum of expenses directly incurred in order to prepare and transmit public information for re-use in a particular way and form (Article 23c APIA).

<sup>15</sup> The absence of relevant information in the subject menu of the entity's Public Information Bulletin website, particularly in the 'Re-use of public information' category, should be treated as consent to the re-use of the published information without restrictions (Article 23h para 4).

<sup>16</sup> The Central Repository is meant to serve as a place where public information of significant importance to the development of innovations in the state and of the information society is published. The way information is stored and shared makes for useful and effective means of re-using public information. In principle, the Repository will be a separate collection, hereafter referred to as the *information resource*. So far, provisions that would facilitate its functioning have not been introduced (Article 9a para 3 and Article 9b APIA).

<sup>17</sup> It must be emphasized that this request is formalized. The Ministry of Administration and Digitization has defined the normative template for the request; see Regulation of the Minister of Administration and Digitization of 17 January 2012 regarding the template for the application for the re-use of public information (Journal of Laws 2012, item 94).

<sup>18</sup> Journal of Laws, no 64, item 565 as amended.

The essence of the right to re-use public information lies in the opportunity open to all people and entities to benefit from information concerning a public matter that is held by an entity obliged to share it pursuant to the APIA. The purpose of the re-use of public information is to create conditions whereby a person, community, legal person or other entity (organizational unit) can utilise information, be it for commercial or non-commercial purposes, in a way different from the original intent of its publication. In principle, such entities receive the right to obtain, free of charge and unconditionally, public information that was previously created or received (acquired) during the performance of public tasks by an organ or entity obliged under the APIA. In this respect, it is essentially irrelevant whether the organ or entity incurred any costs during the acquisition of the information in question. A more important aspect of granting this right is related to the protection of legally-defined secrets, privacy and intellectual rights. This consideration allows the obliged entity to limit access to public information by refusing to grant access (or refusing to determine the conditions for re-use in cases concerning the protection of intellectual rights - *see* Article 23g para 8 APIA in conjunction with para 11 APIA). It should be noted, however, that protection of intellectual property can be claimed only if the holder of these rights is a person or a third party and not the organ or entity obliged to provide access to public information.

Moreover, it is noteworthy that the legislator modified the method of identifying the entity obliged to provide access to public information when introducing the new procedures for providing access to public information for the purpose of re-use, and determining the conditions for the re-use in the event the applicant is already in possession of such information. Previously, there was a single provision concerning the obligation to make information available (Article 4 paras 1-2 APIA) in conjunction with Article 8 para 3 concerning the obligation to publish information on the PIB website of the concerned entity. Once the amendment came into force, it established a specific category of obliged entities with regard to the scope of their obligation to provide access to information pursuant Articles 9a and 23 APIA. The criterion used by the legislator allows a distinction to be drawn between entities:

- obliged only to provide access to public information, both without a request and within the request procedure, and exempted from the obligation to provide access to public information for the purpose of re-use both without a request and within the request procedure (Article 4 para 1 APIA in conjunction with Article 8 para 3, Article 23a para 3 and Article 9a para 2 APIA)<sup>19</sup>,

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<sup>19</sup> The following entities are not bound by the provisions on the re-use of public information: state archives with regard to resources at their disposal; public radio and television entities in accordance with the Broadcasting Act of 29 December 1992 (Journal of Laws 2011, no 43, item 226 as amended) with regard to radio and television programmes and other broadcasts; cultural institutions, local government cultural institutions and other institutions conducting cultural activity, in accordance with Article 2 of the Organisation and Management of Cultural Activities Act of 25 October 1991 (Journal of Laws 2012, item 406 as amended) –organisational forms of cultural activity include theatres, operas, operettas, philharmonic orchestras, orchestras, film institutions, cinemas, museums, libraries, cultural centres, artistic centres, art galleries, as well as centres for research and documentation of various areas of culture – with regard to public information constituting



- obliged to provide access to public information both without a request and within the request procedure (Article 4 paras 1 and 2 APIA in conjunction with Article 8 para 3 APIA), and also obliged to provide access to public information for the purpose of re-use both without a request and within the request procedure - exclusively through PIB; this category comprises organs and entities defined in Article 23a para 2 APIA which are not mentioned in Article 9a para 2 APIA<sup>20</sup>,
- obliged to provide access to public information both without a request and within the request procedure (Article 4 paras 1 and 2 APIA in conjunction with Article 8 para 3 APIA), and also obliged to provide access to public information for the purpose of re-use without a request (through PIB) and within the request procedure (Article 23a para 2 APIA) and obliged to transfer their informational

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the subject of their activity; higher education institutions, the Polish Academy of Sciences and research units in accordance with the Regulations of Science Financing Act of 30 April 2010 with regard to public information used for scientific and educational activities; organisational units of the educational system in accordance with Article 2 of the Education Act of 7 September 1991 (Journal of Laws 2004, no 256, item 2572 as amended) – kindergartens, including those with integration departments, special kindergartens and other forms of pre-school education; schools: a) primary schools, including special, integration, with integration and sport departments, sport schools, b) general lower secondary schools, including special, integrated, bilingual, with integrated departments, sport and vocational training schools, c) upper secondary schools, including special, integrated, bilingual, with integrated departments, sport, agricultural and forestry schools, d) art schools; educational institutions, including school youth shelters, enabling the development of interests and talents and use of various forms of leisure and free time activities; lifelong education institutions, practical education institutions as well as initial and vocational training centres, enabling acquisition and supplementation of general knowledge, skills and vocational qualifications; artistic centres, enabling the development of interests and talents; psychology and pedagogy care centres, including specialized care centres providing psychological and pedagogical care for children, youth, parents and teachers and advising youth in choosing an educational and career path; youth education centres; youth socio-therapy centres, special education centres as well as special education centres for children and youth that use special means and educational methods, centres that enable children mentioned in Article 16 para 7 as well as children and youth with mental impairment and/or disabilities to fulfil the schooling obligation established in Article 14 para 3 of the Schooling and Educational Obligation Act; educational centres providing care and education for pupils receiving education outside of the place of their permanent residency; training institutions and teacher training institutions, pedagogical libraries, colleges of social workers – also in regard to public information used for educational activity.

<sup>20</sup> 1) Prime Minister,

2) units of the public finance sector in accordance with the regulations of the Public Finance Act,

3) state organisational units without legal personality other than those mentioned in subpara 2,

4) legal entities other than mentioned in subpara 2 established to satisfy needs of a universal character that are not related to industry or trade, if either individually or jointly with entities named in subparas 2 and 3, directly or indirectly:

a) provide over 50% of their funding, or

b) hold over half of the stock or shares, or

c) supervise the entities' management body, or

d) have the right to appoint more than half of the management or supervising body,

5) joint enterprises of entities mentioned in subparas 2-4.

resources to the Central Repository (organs and entities mentioned in Article 9a para 2 APIA).

These regulations will render the previous method of identifying the entity obliged to provide access more complicated in some regard. It is likely, however, that it will not significantly affect the implementation of the right to access information for the purpose of re-use.

### **III. RE-USE OF PUBLIC INFORMATION AND ITS ROLE IN ENCOURAGING ECONOMIC ACTIVITY OF INDIVIDUALS**

The main goal of the implemented provisions is to provide to an unspecified range of interested parties (stakeholders) new opportunities to use public information for commercial and non-commercial purposes. This means that everyone can effectively request access to public information in possession of an entity obliged under APIA not only for informational or oversight purposes, but also directly for profit (both tangible and intangible). Such regulation generates multiple effects.

First of all, the separation of the access procedure aimed at obtaining public information from the procedure aimed at obtaining information for its re-use should lead to the conclusion that obtaining public information through the first procedure does not, by any means, grant the right to re-use it. Such information can be disseminated (on the basis of freedom of dissemination which covers all available forms and means of communication), but cannot be re-used in accordance with Article 23a para 1 APIA. The new norms will certainly be the subject of heated debate. It is particularly difficult to draw a clear line separating non-commercial use of public information (as referred to in Article 23a para 1 APIA) from the dissemination of information through a personal blog, newspaper, radio, television and the use of parts of public information during a public presentation of materials, etc.

Secondly, provided that a request for re-use is submitted in accordance with the template described by the Minister of Administration and Digitization, it is the duty of the obliged entity to verify and then prepare (after establishing there are no legal obstacles) the requested public information for re-use so that the applicant can freely use a work (subject to copyright law) or a database, copy and disseminate it, in full or in part, also with the possibility of introducing changes and distributing a derivative work.

Thirdly and most importantly, it leads to the conclusion that the entirety of information resources gathered by an entity obliged under the APIA may potentially be the subject of commercial transactions outside the area of activity of the obliged entity. This is because every piece of information concerning a public matter, archived in any way, may be disseminated and become a source of profit identified not only with the realization of a particular task or public purpose, but for the benefit of the entity that has obtained such information with the intention to re-use it.

## CONCLUSION

In view of the above, it is clear that the solutions set out in the APIA create entirely new ways of using public information. Obtaining such information makes it possible for individuals (communities) and other private entities to carry out objectives they themselves establish, both commercial and non-commercial, without actually having to produce a product which serves as the object of their activity. In that regard, the role of the state, its bodies and public officials (and broadly speaking, all entities obliged to disseminate public information) is to verify whether a particular piece of information should be qualified as public, and to eliminate all possible restrictions on access to it and its re-use.

Having in mind that the re-use of public information can lead to tangible financial gain for different private entities, we may assume increased interest in obtaining such information. This, however, can only happen, as in other areas of economic activity, if the goals motivating the use of such information are properly established. In this regard, entities with access to public information will have to demonstrate ingenuity and a flair for business. In my opinion, in the near future we will see what impact the solutions described above have on civic participation. That is because there is no better incentive than the potential for tangible financial gain, in particular when the costs are much lower than the potential profit.