The Agency for the Protection of the Right to Free Access to Public Information in accordance with Article 109 Paragraph 4 of the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia" No. 124/2015), and based on Article 27 and Article 34 paragraph ( 1) from the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 101/2019) and the Guidelines for the Implementation of the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 60/20), acting on the appeal filed by and G.A.S from Prilep, submitted against the Decision of the Ministry of Finance, on the subject Request for access to public information, on 26.03.2024 brought the following

**DECISION**

**1**. The appeal filed by G.A.S from Prilep, filed against Decision No. 03-2536/4 of 28.02.2024 of the Ministry of Finance, registered in the Agency under No. 08-57 on 13.03.2024, in the subject Request for access to public information**, is REJECTED as unfounded**.

**2.** The decision of the Holder of information no. 03-2536/4 of 28.02.2024 **IS UPHELD.**

**EXPLANATION**

G.A.S. from Prilep, on 02/07/2024, submitted a request for access to public information to the Ministry of Finance filed in the Ministry under No. 03-2536/1 of 02/08/2024, with which they requested the following information:

"Decision of the Minister of Finance on the establishment of a commission to decide on requests for denationalisation with headquarters in the Municipality of Prilep, in the critical period 11/25/2002.

The decision should contain the name and surname of the commission's president, members, and mandate.

If possible, which member of the commission was the notifier of the decision DN No. 17-155/2002 of 25.11.2002 of the Minister of Finance through the commission for deciding on requests for denationalisation based in the Municipality of Prilep.

That is, which member of the commission administratively and technically prepared the decision DN No. 17-155/2000 of 25.11.2002 of the Minister of Finance through the commission for deciding on requests for denationalisation based in the Municipality of Prilep".

The holder of information, acting on the said request, adopted Decision No. 03-2536/4 of 28.02.2024, which rejects the Request of the Information Requester in its entirety. The Decision states: "...In the specific case, a party in the denationalisation procedure can and should exercise his rights with other laws, lex specialis, i.e., in accordance with the provisions of the Law on Denationalization and the Law on General Administrative Law procedure that regulate this matter. The realisation of the right of free access does not imply, at the same time, a violation of the provisions of other substantive and procedural laws according to which certain procedures are conducted. Also, in this particular case, it is not a question of requesting public information but of requesting information from private and personal interests, and the requester can and should realise these interests first of all, in accordance with the substantive laws (listed above) that regulate the appropriate matter in the cases in which they appear as a party. They should seek legal protection in accordance with those laws ...".

Dissatisfied with the above Decision, the Requester of information filed an appeal within the legally stipulated period, filed in the Agency's archive under No. 08-57 on 03.13.2023, in which he states: "..I am submitting this appeal due to a violation of the material law; the decision is not clear, cannot be examined, and does not contain reasons for the relevant facts..."

The Agency, through an e-mail registered under No. 08-57 dated 13.03.2024, forwarded the appeal to the Holder of Information and requested within 7 days to rule on it and to submit to the Agency all documents related to the case.

On March 21, 2024, the Information Holder submitted to the Agency a Response to appeal No. 03-2536/6 dated March 20, 2024, which states: "... Acting upon the Request, the Ministry of Finance on February 28, 2024, prepared Decision No. 03-2536/4 by which the request was rejected and the same was delivered to the applicant… Assessing the allegations in the appeal, the Ministry of Finance determined that it was completely unfounded… Regarding the allegation of the applicant that the president and the members were not listed by name and surname, we inform you that the stated and adopted decision by the Denationalization Commission is not the subject of a request for free access to public information, and the data requested by the requester is not free access information. In the specific case, the applicant G.A.S was a party in the specific procedure for denationalisation, and it has been legally completed. Also, the applicant could and should have exercised his rights with other laws - lex specialis, i.e. in accordance with the provisions of the Law on Denationalization and the Law on General Administrative Procedure, which regulate this matter and which are applied in the specific procedure...".

The Agency for the Protection of the Right to Free Access to Public Information, in accordance with the provisions of the Law on Free Access to Public Information, reviewed the appeal filed by the Information Requester, **rejected it as unfounded, and upheld Decision No. 03-2536/4 of February 28, 2024, of the Information Holder**, due to the following:

The Agency for the Protection of the Right to Free Access to Public Information has determined that the Applicant's Request, submitted to the Ministry of Finance, is not a request for access to public information but is a request of personal interest, i.e. a request under the competence of the Ministry of Finance.

Pursuant to Article 26 of the Law on Free Access to Public Information, "The applicant who submitted a request for access to information in accordance with Article 12 paragraph (1) of this Law has the right to legal protection in accordance with this law". In this particular case, a request was submitted under the jurisdiction of the Information Holder, and no public information was requested in accordance with the Law on Free Access to Public Information.

According to the above, the Agency indicates to the appellant that they can and should exercise their rights and private (personal) interests primarily in accordance with the material laws that regulate the relevant matter in the cases in which they appear as a party and the legal protection they can seek according to those laws.

The Agency points out to the appellant that the purpose of the Law on Free Access to Public Information and the Guidelines for the Implementation of the Law on Free Access to Public Information is to enable natural and legal persons to exercise their right to free access to public information and ensure publicity and openness in the operation of the bodies, for the way of using and spending the public money, the money of the citizens, to enable the participation of the citizens in the creation and management of public policies and the like.

The Law on Free Access does not aim, by submitting a request for access to public information, for information requester to exercise personal, private or individual rights, or as parties to provide evidence for the conduct of court proceedings, additionally to request and propose taking of administrative actions and adoption of certificates, reports and/or other acts, which are in progress, or based on the requested data, proceedings will be initiated before the competent courts, where the requester for access to public information is one of the parties in the dispute.

The law on free access to public information ensures the realisation of public interest, described and exhaustively enumerated in article 3, paragraph 1, paragraph 7 and reads: "Public interest in the realisation of the right of access to information implies, but is not limited to, an interest in information whose publication... 1. will reveal abuse of official position and corrupt behaviour; 2. illegal acquisition or spending of budget funds will be revealed; 3. a potential conflict of interest will be revealed; 4. serious threats to people's health and life will be prevented and discovered; 5. environmental threats will be prevented and detected; 6. it will help to understand the issue for which public policy is created or a parliamentary debate is conducted; and 7. it will enable equal treatment of every citizen before the laws". The legal definition of "public interest" means that the realisation of the public interest implies the realisation of the interest of the wider community as a whole, which has priority over the individual needs and rights of individuals.

According to the above, the Agency for the Protection of the Right to Free Access to Public Information decided as in the dispositive of this Decision.

This Decision is final in the administrative procedure, and there is no room for appeal against it.

**LEGAL REMEDY:** Against this Decision, the party can initiate an administrative dispute before the Administrative Court within 30 days. **Director,**

**Plamenka Bojcheva**