The Agency for the Protection of the Right to Free Access to Public Information, based on Article 109 Paragraph 9 of the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia" No. 124/2015), and in accordance with 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 in accordance with 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 the Citizens' Association Center for Civic Communications CGK-Skopje, through attorney German Filkov, president of the Association, filed against JP Vodovod Kumanovo, in the case of Request for access to public information, on 12.04.2024, brought the following

**DECISION**

  **1**. The appeal filed by the Citizens' Association Center for Civic Communications CGK-Skopje, through attorney German Filkov, president of the Association, filed against JP Vodovod Kumanovo, registered in the Agency under No. 08-83 on 29.03.2024, in the subject Request for access to public information, **IS UPHELD.**

 **2. The case is returned to the first instance authority in the section under point 2 of the Request.**

 **3. The holder of the information is obliged to implement this Decision within 15 days from the day of its receipt and notify the Agency about the same.**

**EXPLANATION**

The Citizens' Association Center for Civil Communications CGK-Skopje, as stated in the appeal, on 21.02.2024 submitted a Request for access to public information to JP Vodovod Kumanovo, with which it was requested to submit an electronic record of the following information:

"1. Name and surname/title of lawyers and law firms whose services you used during 2023.

2. For each lawyer/law firm, provide us with the amounts of payments made and the basis for each payment during 2023.

3. How were each of the lawyers/law firms whose services you used selected?"

Acting upon this Request, on 19.03.2024 the Holder of Information submitted to the Requester a Response to Request No. 03-492/2 dated 18.03.2024 in which it states: "...The request to be delivered to you the individual amounts paid to each of the lawyers and the basis for each payment, we believe that it would harm the confidentiality of the tax procedure, so according to Art. 6 paragraph 1 item 3 of the Law on Free Access to Public Information we are prevented from sharing this information with you... "

Dissatisfied with the above Answer, the Requester of information filed an appeal within the legally stipulated period in the Agency's archive under No. 08-83 on 03.29.2024. The appeal states: "...After reviewing the response, it was determined that the holder did not respond in accordance with point 2 of the request, according to which the amounts for the payments made and the basis of each payment during 2023 were requested for each lawyer/law firm individually. The owner submitted the total amount that refers to the payments to all lawyers in total, but not the individual amount for payments that is the subject of the request...".

The Agency, with letter No. 08-83 dated 04/01/2024, forwarded the appeal to the Information Holder via e-mail and requested within 7 days to rule on it and to submit all documents related to the matter to the Agency.

On April 12, 2024, the holder of the information submitted to the Agency a Response to Appeal No. 03-492/4 dated April 4, 2024, filed with the Agency under No. 08-83. In the Answer it is stated: "... JP Vodovod Kumanovo refused the request for access to it for the reasons provided for in Article 6 paragraph 1 item 3 of the Law on Free Access to Public Information, i.e. for the reason that granting access to this information would harm the confidentiality of the tax procedure... it is unequivocally concluded that the data whose keeping is mandatory as a tax secret cannot be submitted by the holders as public information..."

The Agency for the Protection of the Right to Free Access to Public Information, acting in accordance with the provisions of the Law on Free Access to Public Information, reviewed the appeal filed by the Information Requester and **UPHELD IT**, **ANNULLED the Decision of the Information Holder and sent the matter back to the first-instance authority in the section under point 2 of the Request,** due to the following:

After reviewing the appeal and all documents related to the matter, the Agency determined that the Holder of Information did not act correctly upon the Request of the Requester, in that instead of responding with a Response to the request for free access to public information to the Requester, they were obliged to make a Decision.

In this specific case, the Information Holder did not comply with the provisions of the Law on Free Access to Public Information, by not acting in accordance with Article 20 of the Law on Free Access to Public Information.

When processing again the request for access to public information, the holder of the information is obliged to act in accordance with Article 20 paragraph 1 of the Law on free access to public information ("Official Gazette of the Republic of North Macedonia" no. 101/ 2019) which reads: "If the holder of the information responds positively to the request or if the request is partially or completely rejected, they will bring **answer** which contains all the content elements listed in Article 88 of the Law on General Administrative Procedure.”

The Agency states that the holder of the information did not act in accordance with the provisions of the Law on Free Access to Public Information by not providing the Requester with the requested information in the manner and form specified in the Request in its entirety.

The Agency points out to the holder of the information that according to Article 3 paragraph 1 paragraph 2 of the Law on Free Access to Public Information, it is established that: "public information is information in any form created by or available to the owner of the information in accordance with his competences", and according to article 10 paragraph 1 paragraph 11, 18, 20, 21 and 22 of the same Law, they are obliged to inform the public by publishing data from his competence, annual plans and work programs, all documentation for public procurement, for concessions and for public-private partnership agreements, work reports that they submit to the authorities responsible for implementing control and supervision, statistical data on work, as well as other information, acts and measures that affect life and the work of citizens and resulting from the competence and work of the owner of the information and other information arising from the competence and work of the owner of the information.

The Agency considers that the requested information belongs to the order of information of public interest, which prevails over the interest of the same being protected by the Owner, that is, of being unavailable to the public. According to Article 3, Paragraph 1, Point 7 of the Law on Free Access to Public Information, "public interest" in exercising the right to access to information implies but is not limited to, an interest in information with which to publish, that is, to exercise access: abuse of official position and corrupt behaviour will be revealed; illegal acquisition of budget funds will be revealed; a potential conflict of interest will be revealed; it will prevent and detect environmental threats and help to understand the issue for which public policy is being created...”

The holder of the information is obliged to reconsider the Request of the Requester and to act in accordance with the provisions of the Law on Free Access to Public Information and to provide them with the requested information under point 2 of the Request, **in the manner and form specified in the Request.**

Due to the above, the Agency for the Protection of the Right to Free Access to Public Information decided as 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**