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 T. Ch. from Skopje, filed against the Ministry of Environment and Spatial Planning, in the case Request for access to public information, on 21.03.2024, brought the following

**DECISION**

1. The appeal filed by T. Ch. from Skopje, submitted against the Ministry of Environment and Spatial Planning, registered in the Agency under No. 08-54 on 11.03.2024, in the subject Request for access to information of a public nature, **IS UPHELD.**

1. **The case is returned to the first-instance authority for retrial.**
2. **The holder of the information is obliged to implement this Decision within 15 days from the day of its receipt and to notify the Agency about it.**

**EXPLANATION**

T. Ch. from Skopje, as stated in the appeal, on 19.01.2024 submitted a Request for access to public information to the Ministry of Environment and Spatial Planning by e-mail, with which they requested that an electronic record of the following information be delivered to them:

"Delivery of the following reports submitted by Cementarnica Usje-AD-Skopje to the Ministry of Internal Affairs and Communications:

1. The 2022 Annual Environmental Report.
2. Incident reports in 2023.
3. The last two wastewater quality monitoring reports.
4. The two most recent groundwater quality monitoring reports.
5. The last 12 monthly air monitoring reports and the last 4 ambient air quality measurement reports.
6. The latest water use audit and energy efficiency audit reports.
7. The latest noise review report.
8. The latest dust monitoring report from the marl mine.
9. The latest report on consumption of alternative fuels.

Acting upon this Request, on 23.02.2024, the Holder of Information submitted to the Requester via e-mail a Response to the Request, which states: "...We inform you that the Macedonian Environmental Information Center at the Ministry of Education and Culture does not receive such type of reports, but emission logs from stationary sources in which monthly data are given (fuels, working hours, average monthly data from continuous monitoring, monthly average emission concentrations, etc.). Concerning this information, we direct you to request the information in the IPPC department... From the IPPC Department: "...all data from the measurements, as part of the monitoring, are submitted there and they are obliged to make them available to the public...nowhere in the law, not even in by-laws, does it say that that document should be publicly available. But of course, the document can be shared since it is not classified as confidential, let them come to our offices and we will share everything they need, of course, they have to log in first."

Dissatisfied with the received Response to the request, the Information Requester filed an appeal within the legally stipulated period, filed in the Agency's archive under No. 08-54 on 03.11.2024. The appeal states: "...on 23.02.2024 I received a response from the Ministry of Internal Affairs and Communications, where the last 12 monthly reports on air monitoring were not submitted, 3 (last 4 were requested) reports on measuring ambient air quality, review report of noise, waste water quality report (the last 2 were requested). The 2022 Annual Environmental Report, 2023 Incident Reports, The two most recent groundwater quality monitoring reports, The most recent water use audit and energy efficiency audit reports, The most recent dust monitoring report from marl mine, The Latest Alternative Fuels Consumption Report."

The Agency, with letter No. 08-54 dated 11.03.2024, forwarded the appeal to the Holder of the information via e-mail and requested within 7 days to rule on it and to submit all the documents related to the matter to the Agency.

On March 20, 2024, the holder of the information submitted to the Agency a Statement of Appeal No. 09-2076/2 dated March 15, 2024, filed with the Agency under No. 08-54, stating: "The annual environmental report for 2022 and the two last reports on underground and treated wastewater for 2023 have been submitted by the Operator only in printed form and may be submitted at any time, in agreement with the Industrial Pollution Department and Risk Management (IPDRM) to be available to the requester of the information in the premises of the Ministry of Internal Affairs and Communications, Department for Integrated Prevention and Control of Pollution (IPPC). The reports cited in the appeal as not submitted...are part of the 2022 Annual Report."

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, **UPHELD** the appeal **and sent the matter back to the first-instance authority for further proceedings,** 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 on the Request of the Requester, in that instead of responding with an Answer to the request, they were obliged to make a Decision.

In the 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 information holder 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, it will bring **Decision**", which contains all the elements listed in Article 88 of the Law on General Administrative Procedure.

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, "public information" is information in any form created or available to the holder of the information in accordance with their competences, and in accordance with Article 10 paragraphs 1, 19, 20, 21 and 22 of the same Law, they are obliged to inform the public by publishing data from their competence, work reports that are submitted to the authorities responsible for implementing control and supervision, statistical data on work, as well as other information, acts and measures that affect the life and work of citizens and that result from the competence and work of the information holder and other information that result from the competence and work of the information holder.

The holder of the information is obliged to reconsider the request of the Requester, to act in accordance with the provisions of the Law on free access to public information, and to provide them with the requested information, **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**