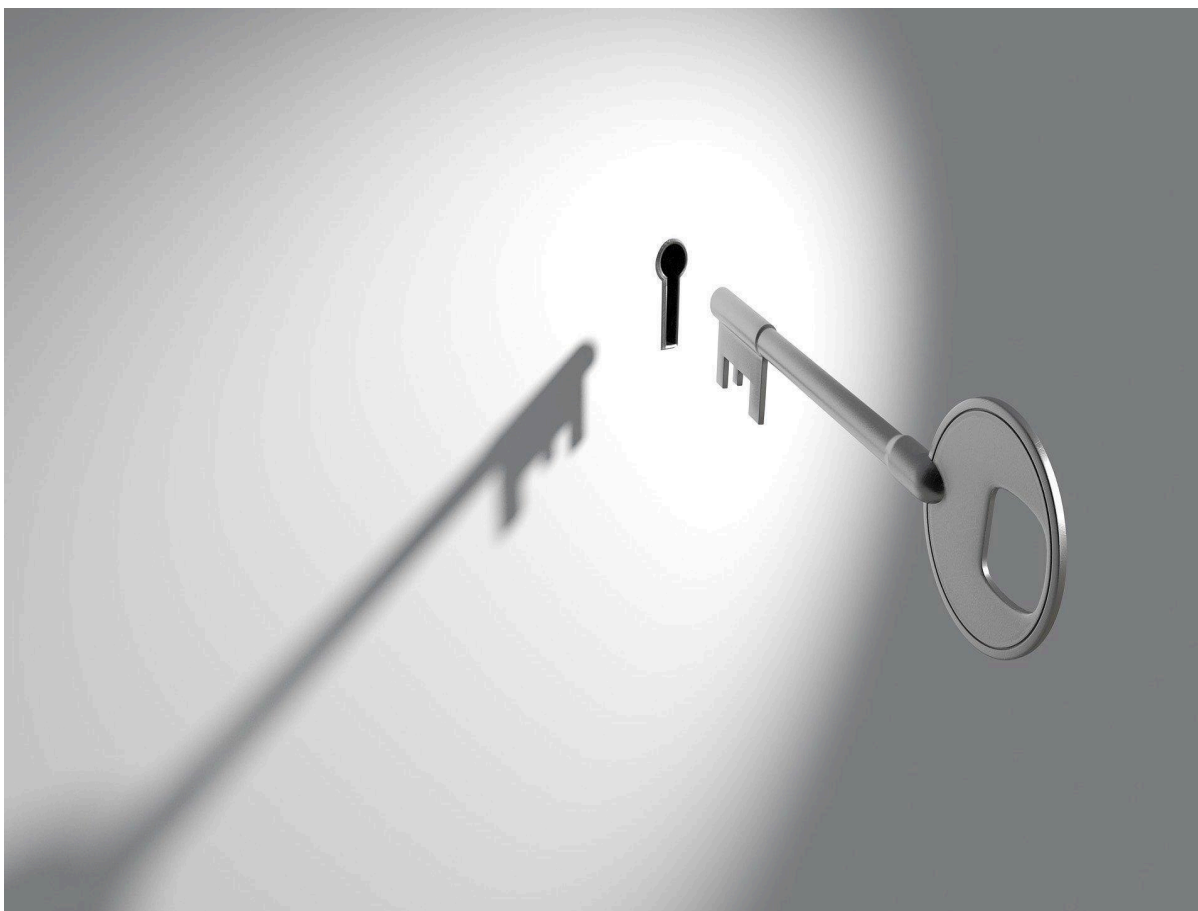




AGENCY FOR THE PROTECTION OF THE RIGHT OF FREE ACCESS TO PUBLIC INFORMATION

**ANALYTICAL REPORT ON THE HOLDERS OF PUBLIC
INFORMATION WHO DO NOT COMPLY WITH THE REQUESTS
FOR ACCESS TO THE INFORMATION WITHIN THE LEGAL
PERIOD (SILENCE OF THE ADMINISTRATION)
FROM JANUARY 1 TO JUNE 30, 2024**



Skopje, July 2024

INTRODUCTION

Law on free access to public information ("Official Gazette of RSM" No. 101/2019) in accordance with Article 21, paragraph 1, stipulates that the holder of the information is obliged to respond immediately to the request of the requester, and no later than within 20 days from the day of receipt of the request. If, in the event that the holder of the information needs to provide partial access to the information in accordance with Article 6 paragraph (4) of the Law on the FAPI or due to the volume of the requested information, he needs more time than the deadline established in Article 21, the deadline can be extended maximum up to 30 days from the day of receipt of the request. The holder of the information about the extension of the deadline is obliged to notify the applicant in electronic form immediately, and no later than seven days from the day of receipt of the request. If the holder of the information does not act within the period provided by the Law, the requester of the information may file an appeal with the Agency for the Protection of the Right to Free Access to Public Information, within 15 days after the expiration of the period of 20 or 30 days.

In the event that the holder does not act upon the request for access to information within the prescribed deadlines, that is, in the case of the so-called "silence of the administration", the applicant has the right to file an appeal with the Agency. In order for the applicant to file an appeal, it is essential that the legal period of 20 days, i.e. 30 days (if the holder has extended the period for acting on the request, in cases stipulated by Article 22 of the LFAPI) has passed since the properly submitted request.

The agency conducts administrative procedures and decides on appeals from information seekers filed against information holders, regardless of whether the information holders tried to be non-transparent, did not act in accordance with the LFAPI, or passed administrative or real acts by which they refused or rejected requests for access to public information submitted by applicants.

The right to file an appeal is the right of all natural and legal persons who have submitted an oral, written or electronic request for access to public information to a holder, at the central or local level, i.e. to any of the holders of information, who in the procedure appear as first-level authorities who act on requests from information seekers.

On the other hand, the Agency, as a secondary authority in the procedure, electronically forwards the appeals received from dissatisfied applicants to the holders of information for a decision, with a request that they make a decision on the appeals within 7 days and submit an answer to them to the Agency, as well as to attach all relevant documents, in order for the Agency to act immediately and make an appropriate decision within the legally stipulated period of 15 days.

In its action, in accordance with the Law on General Administrative Procedure, the Agency initially delivers to the holders of information who have not acted on the requests for access to public information orders for action in accordance with the LFAPI within 15 days from the receipt of the decision, with an obligation to inform the Agency about their actions within that period.

It should be noted that the largest number of appeals submitted to the Agency, for 2023 - 277 or 61%, are cases in which the holders of information did not act on submitted requests within the legally prescribed deadlines (20 days after the request was submitted, or 30 days if the request requires extensive information), that is, because of the so-called "silence of the administration".

Year	appeals to the Agency filed due to silence	Total number of appeals
2023	277 - 61%	453
2022	211 – 62 %	343
2021	359 – 45 %	798
2020	611 – 81 %	752

The silence of the administration as a reason for submitting an appeal to the Agency in the last 4 years

SUBMITTED appeals (SILENCE OF THE ADMINISTRATION)

This analysis refers to the period from January 1 to June 30, 2024, that is, to the number of appeals that were submitted due to the silence of the administration and the holders of information that did not act within the legally stipulated period after requests submitted by the information seekers, and the purpose is to avoid this unpopular tool by holders who ignore submitted requests.

By processing the data for the needs of this analysis, it was determined that from January 1 to June 30, 2024, out of a total of 196 appeals submitted to the Agency, 142 appeals or 72.45% were submitted due to the silence of the administration.

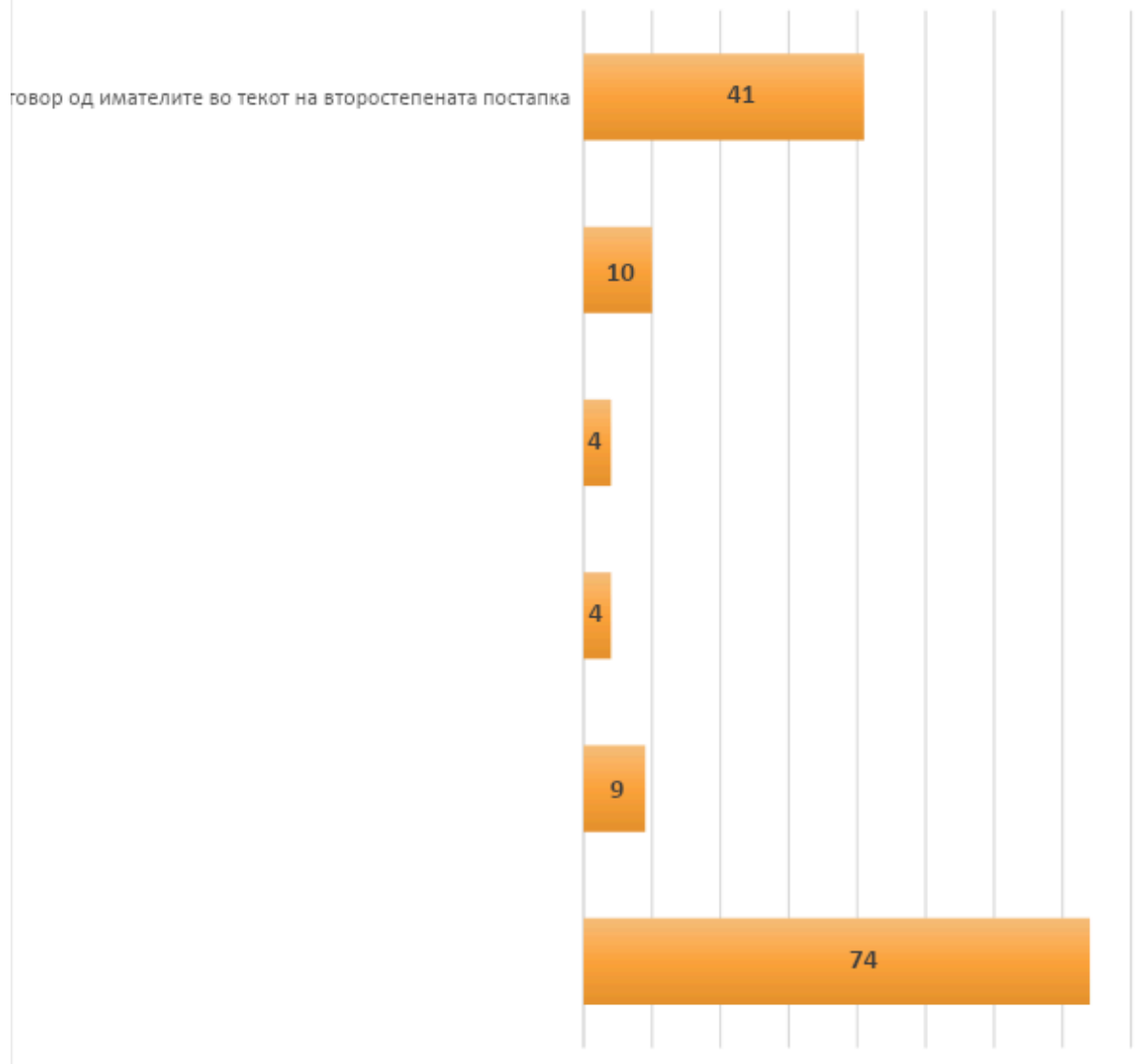
The largest number of appeals due to the administration's silence until June 30, 2024 were filed against the following information holders:

- City of Skopje (10)
- Municipality of Ohrid (8)
- SUGS "Josip Broz-Tito"-Skopje (6)
- Chair Municipality (5)
- Municipality of Negotino (4)
- Ministry of Political System and Inter-Community Relations (4)
- Ministry of Information Society and Administration (4)
- Ministry of Education and Science (4)

Out of the total of 142 appeals based on the administration's silence in the analyzed period, it was determined that most of the appeals submitted due to the administration's silence were resolved in such a way that after 74 appeals the holder was ordered to act on the request, for 41 appeals the procedure is stopped due to withdrawal of the same by the applicant, after 10 appeals the case is returned to the first instance authority, for 4 appeals decisions were made rejecting the appeal as untimely, after 4 appeals decisions were made rejecting the appeal as inadmissible, and for 9 appeals decisions were made rejecting the appeal as unfounded.

Out of the total of 142 appeals due to the administration's silence, the Agency made 11 debt decisions on the merits following a second complaint by the claimants.

Решени предмети и нивна структура



When comparing the above data with the data from the Annual Report of the Agency for 2023, it is evident that the holders who, even after 30 days from the legal deadline for acting on the requests received, have not submitted a response to the requesters are: the Ministry of Political System and Relations between communities and Negotino Municipality. In the period to which the analysis refers, the greatest silence of the administration can be noted to be among the local self-government units. The largest number of appeals were submitted to the City of Skopje and the Municipality of Ohrid. These two municipalities, according to the number of appeals filed due to the administration's silence, are the municipalities that are not transparent and accountable in their operations, but also in informing the citizens. The interest of citizens/seekers of public information in obtaining certain information and data that are important to them

for ensuring transparency and accountability and for their inclusion in policy-making processes at the local level, as well as the information that citizens believe will make it easier for them access to public services is high, and this can be seen from the data on received requests that the holders of the local self-government units present in their annual reports submitted to the Agency (2,480 requests in 2023).

This interest of the requesters for information from the local self-government shows that the holders should promptly respond to the submitted requests for free access, and at the same time increase their proactive transparency. By publishing the information in a timely manner, the holders will also reduce the number of requests submitted to them on the basis of the Law on FAPI.

CONCLUSION

The analysis of the data from the appeals received due to the silence of the administration, that is, the failure to act on **the requests for public information submitted by the requesters (the silence of the administration) continues to be a problem in the application of the Law on FAPI for a certain number of information holders**. When analyzing the holders against whom appeals were filed due to the administration's silence, it can be noted that the largest number of appeals are against holders from the local self-government. However, in this period it is noticeable that the number of appeals has increased against the holders of educational institutions and legal and natural persons who exercise public powers and activities of public interest.

It should be pointed out that most of the time the failure to act on submitted requests within the legally stipulated period does not depend only on the officials, but also on the persons responsible for the information holders. The agency always points out that the process for acting on a request for public information is a chain from which not a single link should be missing in the institution in order to receive the necessary response. And in the period that follows, the Agency will work on raising the awareness of the holders to act on the requests submitted to them in a timely manner and within the legally stipulated period. Although, all officials of the holders who do not act in accordance with the Law on FAPI have attended trainings that the Agency organizes and maintains for them, but the analysis showed the need for these officials for the Agency to organize specialized trainings that will again emphasize the importance of free access to public information, as a basic human and democratic right, as well as a tool that prevents the corrupt operation of institutions.

Holders of information should proactively publish the information they have, and thus present the work done to the citizens in a faster and easier way, that is, make it accountable to the public for inspection. The goal is that through the publication of the information on their web pages, the holders provide access to the information in a predictable manner, meeting the minimum standards according to the Law (Article 10). Web-the site of the holders is the basic tool for informing the public on which all public information should be published. Web security should be taken into account-accessibility in the easiest and fastest way, visibility of categories of information on the main menu, with access to all categories of information with up to three clicks. The data should be regularly updated, with a special approach depending on the specifics of each piece of information and the need for updating on a daily basis, or as soon as the need arises.

We should point out that the holders of the Draft Minutes of the One Hundred and Twenty-First Session of the Government of the Republic of North Macedonia held on January 24, 2023, were required to publish the information from Article 10 of the Law on FAPI that they have not yet published, and the published information to regularly update them on a monthly basis. Also, in a separate banner, publish anonymously the requests for access to public information, together with the answers they have already submitted to the requester in order to be able to be reused by other natural and legal persons, but also not to repeat the same requirements.

Holders of public information need to do an internal analysis of which requests are most often received by requesters and publish the requested information proactively on their web pages, all in order for the information to be useful and used by the citizens.

Proactive transparency of institutions is a prerequisite for accountable and responsible governance. At the same time, improved transparency of the institutions will enable a strengthened system of control by citizens and the civil sector, which will enable the fight against corruption to be advanced.

The silence of the administration should be the biggest exception, not the rule in the work of the holders, because INFORMATION IS THE POWER AND OXYGEN OF DEMOCRACY!!!

