The Agency for the Protection of the Right to Free Access to Public Information, based on Article 109 paragraphs 1 and 2 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 of the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 101/2019) and in accordance with the provisions of the Guidelines for the Implementation of the Law on Free Access to Public Information ("Official Gazette of Republic of North Macedonia" No. 60/20), acting on the appeal filed by M. K. from Skopje, filed against the Decision of the Agency for Administration, on 11.04.2024 brought the following

**DECISION**

The appeal from M. K. from Skopje, submitted against the Decision of the Agency for Administration No. 08-890/4 of 12.03.2024, registered in the archives of the Agency for the Protection of the Right to Free Access to Public Information under No. 08-62 on 20.03.2024 year, **DISMISSED as inadmissible**.

**EXPLANATION**

## M. K. from Skopje 05.03..2024 submitted a request entitled "Request for access to public information" to the Agency for Administration, with which they requested by e-mail or in person to be allowed to inspect or to be delivered to her photocopy of the following information:

"Which criteria did the Selection Commission use for scoring non-formal education during employment to **candidate M. K.,** and for what reasons it awarded 0 points, i.e. it did not award points at all, in the process of scoring the submitted international certificates issued by relevant international institutions which are related training courses for the acquisition of management skills, i.e. leadership skills that are required for management positions in government institutions, as well as training certificates for proficiency in project management that are also required to perform the work goals and tasks for this management position in the Ministry of Education and Science?

-Which criteria did the Selection Commission use in hiring to score the long-term employment and long-term managerial work experience **to candidate M. K.,** and for what reasons did they not award the necessary points?

- Why and for what reasons did the Employment Selection Commission not score the positive recommendation that is also part of the application of **candidate M.K.**?“.

Acting on this Request, as stated in the appeal, the Information Holder "...assessed the same as incomplete, i.e. determined that the **request in question does not require public information**, which is why they instructed the applicant by e-mail on 03.07.2024 to supplement or specify the request".

On 08.03.2024, M. K. from Skopje made an "addition to the request" by requesting the following information in the same way and the same form:

"- I'm looking for information - a copy of the criteria used by the Selection Commission in hiring for scoring **on M.K.** (with identification code 785BEDB), as a candidate according to the above-mentioned public announcement No. 02/2024, published on 01.03.2024, as key criteria for ensuring a fair and transparent candidate selection process in relation to the scoring of candidates for: - work experience, - managerial work experience and - the positive recommendation as part of the candidate's application following the above-mentioned public announcement.

- I am looking for information - a copy of the Minutes of the work of the Commission for selection in employment following the above-mentioned public announcement No. 02/2024 of 03.01.2024, that is, for the verification of the entered data from the application for employment in accordance with the conditions that must be met by the candidates from the public announcement, the attached evidence in the application with the scoring calculations according to the necessary conditions **for candidate M. K.** (with identification code 785BEDB), and especially in relation to the candidate's scoring for: - work experience to meet the legally prescribed minimum, - work experience to meet above the legally prescribed minimum, - work experience in a management position above the legally prescribed minimum and - the positive recommendation from before a job for which work experience of at least 1 year has been recorded, as part of the candidate's application following the above-mentioned public announcement".

Acting on the supplemented request, the Holder of Information adopted Decision No. 08-890/4 of 12.03.2024, which rejected the request because "...even after the supplement, it does not meet the requirements of Article 16 of the Law on Free Access to Public Information, that is, that the request according to its content cannot be accepted as a Request for free access to public information..."

Unsatisfied with the decision received, the Information Requester filed an appeal with the Agency under No. 08-80 on March 26, 2024.

The Agency, by electronic letter No. 08-80 of March 28, 2024, forwarded the appeal to the Holder of Information and requested that a ruling be issued on it within 7 days and that all documents related to the matter be submitted to the Agency.

On April 12, 2024, the holder of the information submitted to the Agency a Statement of appeal No. 08-890/7 dated April 4, 2024, in which he states: "...the allegations in the appeal are completely unfounded, for the reason that neither the basic Access Request to public information… neither the Supplement to the request… represent a request for specific information or a specific document in the sense of Article 3 paragraph 1 paragraph 2 of the Law on Free Access to Public Information… Regarding the method of the selection of candidates and the scoring of the various stages of selection, we point out that the same is regulated by the Decree on the Implementation of the Procedure for the Employment of Administrative Officers... Given the fact that now the appellant requested that the rejected request be explained in detail to her in what way and was awarded or not awarded points individually on all grounds, the Agency for Administration considered that it could not be a question of a request for access to public information... We inform you that the appellant has now also submitted Request for Information number 10- 905/1 dated March 8, 2024, to the Department to select candidates for employment at the Agency for Administration, with the same content as the rejected request. The same was answered on March 28, 2024."

The Agency for the Protection of the Right to Free Access to Public Information, taking into account all the attached files on the subject, determined that the Request of the Requester dated 05.03.2024 and the Supplement to the Request dated 08.04.2024, submitted to the Agency for Administration, do not represent a request for access to public information, but is a request of personal interest, that is, a request from the competence of the Agency for Administration, which is obliged to act according to its competence.

From the files in the case, the Agency determined that in the specific case, the Information Requester, unfoundedly referring to the Law on Free Access to Public Information and disregarding the public interest regulated in Article 3 paragraph 1 paragraph 7 of the same Law, submitted a request for access to public information, with which the Request requests information about the way the Administration Agency acts and the "scoring criteria" of a personal application for employment following a public announcement of the Information Requester.

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 specific case, the Requester tried to get information from the Information Holder, unfoundedly referring to the Law on Free Access to Public Information.

The Agency for the Protection of the Right to Free Access to Public Information indicates 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 the physical and legal persons to be enabled to exercise the right of free access to public information and ensure publicity and openness in the operation of the bodies, and not its legally unfounded and inappropriate application.

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 being created, or a parliamentary debate is being 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 precedes the individual needs and rights of individuals.

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.

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**

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