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 in accordance with Article 27, Article 34 paragraph 1 of the Law for 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 an appeal filed by A. M. of Skopje submitted against the Ministry of Education and Science, in the matter Request for access to public information, on 04/09/2024 brought the following

 **DECISION**

1. The appeal filed by A. M. from Skopje against the Ministry of Education and Science, registered in the Agency under no. 08-55 on 01.04.2024, on the subject Request for access to declassified information **IS REJECTED as unfounded**.

2. The decision of the Holder of information no. 03-3718/1 of 03.29.2024 **IS UPHELD**.

 **EXPLANATION**

## A. M. from Skopje on February 17, 2024, electronically submitted a request for access to public information to the Ministry of Education and Science, with which they requested that a transcript of the following information be delivered to them by mail:

"1. Pursuant to Art. 71 of the Law on Higher Education, the MES maintains a Register of Higher Education Institutions. Do higher education institutions have an obligation to report in this Register every change and submit appropriate documents regarding the persons selected in teaching-scientific, scientific and teaching positions and associate positions (e.g. Newly elected persons in teaching-scientific positions who have established an employment relationship, or persons whose election and employment in the specific higher education institution have ceased)?

2. Does the Ministry of Education and Science ex officio obtain data on such changes from higher education institutions at certain time intervals and update the Register?"

The holder of the information did not respond to this request within the legally stipulated period, which is why the requester of the information, within the legally stipulated period, filed an appeal registered with the Agency under no. 08-55 on March 11, 2024.

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, with Decision No. 08-55 dated 25.03.2024, UPHELD the appeal and instructed the holder of the information to act on the request of the Requester in accordance with the provisions of the Law on free access to public information.

The information holder did not submit a notification to the Agency regarding the implementation of the Agency's Decision.

On 04/01/2024, the information requester submitted a second appeal to the Agency stating that "On 03/13/2024, I received a response from the Ministry of Education and Culture which does not contain any relevant information about what I requested... the same day I sent them an email in accordance with article 24 (4) of the Law in which it was explained to them that the information sent is not at all appropriate to the information requested… On 14.03.2024, I received a reply that my request has been forwarded to the higher education sector for a response".

The Agency, through an e-mail registered under No. 08-55 dated 04/01/2024, 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.

Instead of ruling on the appeal, on April 1, 2024, the Information Holder submitted to the Agency Decision No. 03-3718/1 dated March 29, 2024, by which the Request is "accepted". In the Explanation of the Decision, it is stated that "The requested data are not from the field of keeping the Register of higher education institutions, but are from the field of higher education activity... attached to this Decision is the requested rule book... In the higher education sector, the decisions for the promotion of the teaching, scientific-research and administrative staff are submitted ex officio by the state higher education institutions, i.e. decisions for the promotion of the employees are submitted... Based on the above, the requested information is not public... ".

The requester of information, before an administrative act was adopted by the Agency, submitted a new letter entitled "appeal" on April 9, 2024, registered in the Agency under No. 08-55. It emphasises: "It is true that the Ministry of Education and Culture submitted to me the Regulations for the Register of Higher Education Institutions, in which Article 7 stipulates... From this provision, it is not clear who is obliged to submit the documents and evidence based on which are "recorded all the changes that occur in the higher education institution" and whether the Ministry of Education obtains the same ex officio... it turns out that not only the decisions on the promotion of the staff but also the decisions on the termination of the selection and the employment from article 178 of the Law on higher education, and all other changes that affect the total number of teachers and associates of the higher education institution... Moreover, in the second paragraph on page 2 of the appealed decision, it is stated that "based on the assessment of the report of the review commission, the employees are registered in wage control and are recognised according to Art. 173 paragraph 1 of the Law on Higher Education...", these allegations are again unclear and do not correlate with the cited provision in the Higher Education Act, so at least this information should be clarified for me."

After considering the entitled appeal and all available documents related to the subject, the Agency rejected the appeal as unfounded and confirmed the contested Decision of the Information Holder No. 03-3718/1 dated 03/29/2024 for the following reasons:

The Agency determined that the Requester was provided with an answer to their Request within the provisions of the Law on Free Access to Public Information; that is, he was provided with information in accordance with Article 3, Paragraph 1, Paragraph 2 of the Law on Free Access to Public Information, according to which "public information" is information in any form created or with which the owner of the information disposes in accordance with his competences.

Pursuant to the Law on free access to public information, the holder of the information is **not obliged to create new information** to satisfy the Requester regarding his submitted Information Request for free access to public information.

Following 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**