



NATIONAL TRANSPARENCY AUTHORITY

ETHICS COMMITTEE OF ARTICLE 74 OF LAW 4622/2019

DECISION 3/2021

The Ethics Committee of Article 74 of Law 4622/2019 met in session on Friday October 8, 2021, at 10:00 a.m., following the Chairman's invitation to the other regular and alternate members dated 28 September 2021, which was sent by email along with the agenda. The meeting was held by teleconference and was attended by the following members of the Ethics Committee: Menelaos Tsouplakis, Chairman of the Management Board of the National Transparency Authority (Chairman), Anastasia Zafiriadou, Legal Advisor to the State (regular member), Efstratios Iliadelis, Legal Advisor to the State (regular member), Dionysios Laskaratos, First Vice-President of the Supreme Council for Civil Personnel Selection (regular member) and Andreas Pottakis, Ombudsman (regular member). Secretarial support was provided by Eleni Magkafa, a secondary education category employee, administrative secretary, with grade A, of the General Directorate of Financial and Administrative Services and e-Governance of the National Transparency Authority.

The purpose of the above meeting was the discussion of the application under protocol number of the National Transparency Authority's incoming correspondence 31745/24.09.2021, of Mr....., former Deputy Minister of Health, submitted to the Ethics Committee, in the perspective of the imminent establishment of a company (Private Capital Company) by him, with the purpose of providing research and experimental development services in the fields of mathematics and social sciences, consulting on financial and human resources management, providing organizational and operational research services, providing economic research services and financial advisory services.

According to Article 73 of Law 4622/2019, it is specified, inter alia, that the persons appointed to the positions referred to in Article 68 of the same law, namely (a)



members of the Government and Deputy Ministers, (b) the General and Special Secretaries, as well as the Coordinators of the Decentralized Administrations, (c) the Presidents or heads of Independent Authorities and the Presidents, Vice-Presidents, Governors, Interim Governors, Sub-Governors, managing or executive advisors of legal entities of public law and private law, whose selection is the responsibility of the Government, with the exception of entities under the scope of Chapter B of Law 3429/2005 (A' 314), are required for (1) one year after leaving their position for any reason, to obtain permission for any professional or business activity related to the activity of the body to which they were appointed, since this may create a conflict of interest within the meaning of Article 71 of Law 4622/2019. Such a situation arises in particular: (a) through the provision by them of services - under any legal relationship - to a natural or legal person under private law, domestic or foreign, or (b) through their participation in the capital or management of the above legal entities, except in cases of acquisition of shares, corporate interests or other rights through inheritance.

The above persons who intend to engage in an activity that may fall within the scope of paragraph 1 of Article 73 of Law 4622/2019 shall submit a relevant application to the Ethics Committee referred to in Article 74 of the same law. The Committee, after considering the application of the person, shall issue a reasoned decision within an exclusive period of one (1) month. During this period, the person must refrain from engaging in the activity to which the application relates. If the Committee does not decide within the specified time limit, the permission shall be deemed to have been granted. The Committee, which, pursuant to Article 73(par.3)(sec.d) of Law 4622/2019, may request the applicant to provide any additional information that it deems necessary for its decision, may, by its decision, taken at its discretion, pursuant to Article 73(par.4) of Law 4622/2019, which is published on the website of the National Transparency Authority: (a) allow the mentioned activity without restrictions or conditions, (b) allow it with the necessary restrictions and conditions, (c) prohibit it absolutely- Cases (b) and (c) may not exceed a time limit of one (1) year after the person has left the position referred to in Article 68 of Law 4622/2019 for any reason. In cases (b) and (c), the Committee may determine reasonable compensation for the person, that is borne by the State Budget.

The applicant falls within the scope of Article 68(par.1)(a) of Law 4622/2019 and,



therefore, he may submit the above application, in the form required by law, to the Ethics Committee, in accordance with Article 73(par.1) and (par.2) of Law 4622/2019, as he is required to do, given that one year has not passed since the completion of his ministerial duties.

Next, it must be examined whether the pursuit of the professional activity desired by the applicant is actually capable of creating a conflict of interest situation. In particular, the body to which the applicant was appointed, namely the Ministry of Health, has, pursuant to Article 1 of Presidential Decree 121/2017 (Organization of the Ministry of Health), the mission of safeguarding, protecting and promoting the health of the population, through the planning and implementation of public health policies, ensuring that there is universal and equal access to the provision of adequate health care services, both in terms of quality and quantity, by the National Health System, as well as regulating the operation and exercising supervision over private healthcare providers. In this case, the lack of relevance between the field in which the applicant's ministerial duties were carried out, namely the field of health, and the field in which the applicant wishes to pursue his new professional activity, namely research and finance, significantly reduces the risk of a conflict of interests.

The applicant's intended professional activity is not related to the field of health, namely health service providers, the pharmaceutical industry or other pharmaceutical products, and therefore cannot be considered to be in a position to take unfair advantage of, or 'exploit' the contacts he developed with state bodies in the performance of his duties during his term of office at the Ministry of Health in order to enhance his future activity, as this will be developed in a completely different field.

Considering the completely different field of activity desired by the applicant compared to the field of activity of the body to which he was appointed, there is no need for a more detailed examination and comparison of his specific duties in the public authority and those he will to perform in the private sector. If it were to be assumed that, *prima facie*, there was a similarity between the activities of the organization to which the applicant was assigned and his intended activities in the private sector, it would be necessary to examine further the specific tasks involved in each of his professional activities. The only specific issue that needs to be highlighted



is whether the case in which the company that the applicant wishes to set up has concluded a contract for the provision of consulting and research services with a state health service provider, which until 31 August 2021 was subject to the applicant's supervision, would fall within the concept of a conflict of interest. However, taking into account the clarification provided by the applicant in his letter dated 24 September 2021 and registered by the National Transparency Authority under reference number 32096/28.09.2021, according to which his intended professional activity is not related to his previous duties as Deputy Minister of Health and does not concern a transactional-or commercial activity related to the health services sector, the Committee unanimously concludes that the above clarification by the applicant should be understood as a declaration of his intention not to enter into a contract between the company he intends to set up and the Ministry of Health or public undertakings in the health sector falling within its supervisory remit until recently.

Consequently, in view of all the above, the Committee unanimously decides to grant the applicant, former Deputy Minister of Health, the requested permission for professional activity, on the sole condition that he refrains from concluding a contract between the company he intends to set up and the Ministry of Health or public authorities in the health sector that were until recently subject to its supervision.

The Chairman of the Ethics Committee

MenelaosTsouplakis