



NATIONAL TRANSPARENCY AUTHORITY

ETHICS COMMITTEE OF ARTICLE 74 OF LAW 4622/2019

DECISION 4/2022

The Ethics Committee of Article 74 of Law 4622/2019 met in session on Monday September 19, 2022, at 12:00 p.m. following the Chairman’s invitation to the other regular and alternate members dated 07.09.2022, 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 Konstantinos Panagopoulos, a university education category employee 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 to discuss application under protocol number 26714 EI 2022/26.08.2022 of Ms., former Vice-President of the Board of Directors of the Greek Film Center (hereinafter referred to as GFC.), which was submitted to the Ethics Committee in view of her imminent provision of support services to GFC on european or international policy and practice issues relating to its in-depth presence and assistance to the Ministry of Culture and Sports, and in particular in view of her imminent participation in the management committee of the “Creative Europe” program (for the MEDIA sub-program), in the EURIMAGES expert group on television series or on any other issue arising in relation to the fund's strategies and policy, in a working group or as an advisor to the GFC, for the formulation of bilateral or multilateral film co-production agreements with third countries. This application was supplemented by the additional information requested by the Committee pursuant to Article 73(par3), fourth subparagraph, of Law 4622/2019.

Pursuant to Article 73 of Law 4622/2019, it is stipulated, inter alia, that 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 directors or executive advisors of legal entities of public law (L.E.P.L.) and private law (L.E.Pr.L.), whose selection is at the discretion of the Government, with the exception of bodies falling within the scope of Chapter B of Law 3429/2005 (A' 314), are required, for one (1) 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, ~~provided that~~ where such activity 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 of private law in Greece or abroad; or (b) through their participation in the capital or management of the above legal entities, except in cases of acquisition of shares, corporate shares 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(par3), fourth paragraph, of Law 4622/2019, may request from the applicant any additional information it deems necessary for taking a decision, may, by its decision, taken at its discretion, pursuant to Article 73(par4) of Law 4622/2019, which shall be published on the website of the National Transparency Authority: (a) allow the activity in question 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.

In this case, the GFC is a public-benefit, non-profit legal entity of private law, supervised by the Minister of Culture and Sports, and its Board of Directors is appointed by decision of the aforementioned Minister. Pursuant to the decision of the Minister of Culture and Sports dated 28/09/2020 and numbered YP.PO.A./YG/GDDYID/ΔΔΑΔ/ΤΔΥΕΦ



528872/48411/38809/36734/1159 of the Minister of Culture and Sports (Government Gazette Y.O.D.D. 803/29-09-2020) the applicant served as Vice-Chair of the Board of Directors of the GFC from 29/09/2020 until 05/08/2022, the date on which she resigned. The applicant falls within the scope of Article 68(par1, section c) of Law 4622/2019 and, therefore, she is entitled to submit the above application, in the form required by law, to the Ethics Committee, in accordance with Article 73(par1 and 2) of Law 4622/2019, as she is required to do, given that one year has not elapsed since the completion of her duties as Vice-Chair of the Board of Directors of the GFC.

Next, it must be examined whether the pursuit of the professional activity desired by the applicant, could in fact give rise to a conflict of interest. In particular, with regard to the exact scope of the applicant's responsibilities during her term of office as a member of the Board of Directors of the GFC, pursuant to Article 13(7 sections a-j) of Law 3905/2010, it appears that, together with the other members of the Board of Directors, she is responsible for (a) defining the cultural policy and strategy of the GFC, b) approving the internal rules of procedure of the GFC and submitting them for final approval to the competent Ministers, c) accepting donations, contributions, grants, and taking out loans, d) exercising second-degree disciplinary authority over GFC staff, e) approving the annual budget, the annual report on activities, and the financial statements for submission to the competent Minister, f) issuing certificates of Greek nationality for cinematographic works, g) granting certificates for the aid intensity of a film project, h) approving and publishing subsidy and financing programs, as well as the relevant special regulations, i) conducting legality checks on the actions of the Director General, and (j) approving, upon recommendation of the Director General, the appointment of consultants, readers, and evaluation committees for applications for funding to the GFC in accordance with the provisions of the Financial Programs Regulation for evaluation bodies. Consequently, it follows from the law that the applicant, in her capacity as Vice-Chair of the GFC Board of Directors, did not have powers separate from those of the other members of the GFC Board of Directors. Furthermore, the evidence submitted shows that she was not assigned any additional powers either by decision of the Minister, as no such reference is made in the Government Gazette appointing her, or by the Chairman of the Board of Directors of the GFC. A relevant certificate has been submitted by the Chairman of the Board of Directors of the GFC, Mr..... Furthermore, it was noted that she did not need to replace the Chairman of the Board of Directors of the Hellenic Capital Market Commission in his duties.



In particular, with regard to her role as a member of the Board of Directors of the GFC and in order to investigate the existence of any conflict between her duties as a member of the Board of Directors of the GFC and the duties she wishes to undertake in her new capacity as a provider of support services to the same legal entity, namely the GFC, on European or international policy and practice issues relating to its in-depth presence and assistance to the Ministry of Culture, it should be noted that, pursuant to both Law 3905/2010 (Articles 10(par1, sections I and j)) and the Internal Regulations (Joint Ministerial Decision No. 415383/Government Gazette B 4051/03-09-2021) of the GFC(Article 1(2)(i) and (j)), the objectives of the GFC include, among other things, representing Greece in the European Film and Audiovisual Co-production Support Fund Film and Audiovisual Co-productions of the Council of Europe (hereinafter EURIMAGES), as well as cooperation with the European Commission for the operation of the Promotion Office of the Media Program (the European Parliament and the Council of the European Union's support program for the European audiovisual sector (hereinafter MEDIA)). In particular, pursuant to Article 11 of the aforementioned Internal Regulations, the national representative to the EURIMAGES Fund is responsible for representing Greek producers by supporting their applications for funding from the Fund, representing the GFC in all EURIMAGES activities and strengthening the network of contacts with other representatives of the Fund, as well as cooperating with producers and co-producers in the presentation and promotion of film production projects eligible for funding.

Furthermore, pursuant to Article 12 of the Internal Regulations, the MEDIA/Creative Europe Office, in cooperation with the Ministry of Culture and Sports, shall be entrusted with the formulation of actions to be implemented under the national budget of the MEDIA Program, including the preparation of the requisite application documents for submission. The Office shall, in addition, oversee the absorption and allocation of the relevant funds to the respective actions, submit recommendations to the Director-General of the GFC concerning measures for the optimal utilization of the budget, and promote cross-border cooperation and participation in the Program through networking initiatives, as well as by providing specialized expertise regarding the impact of the Program in Greece.

Consequently, it follows from the above that the role of the national representative of the GFC in the EURIMAGES Fund and of the respective participant in the MEDIA Program's management committee consists of supporting the applications for funding of Greek



producers from the above Fund and submitting proposals for actions to absorb the MEDIA Program's funds, respectively. Even if it were assumed that a Greek producer whose project had received funding under a decision of the GFC Board during the applicant's term of office, submitted, after taking up her new duties, an application for funding from the EURIMAGES Fund and that this application was supported by the applicant, this would not give rise to a conflict of interest. More specifically, her new position is not such as to secure benefits, financial or otherwise, for herself or related persons, or cause damage, financial or otherwise, to persons, natural or legal, with whom there is a particular hostility as defined in Article 71(par2and 3) of Law 4622/2019, since, on the one hand, the applicant will be a member of a management committee or a group of experts and will not take the relevant decisions alone and, on the other hand the new role consists precisely in supporting Greek producers who apply for funding or inclusion in actions to absorb European Union funds.

Moreover, according to the indicative list in Article 73(par1) of Law 4622/2019 of cases giving rise to a conflict of interest, such a risk could arise in a case where the applicant was either going to participate in the capital or management of a legal entity whose object is the production of audiovisual works or to develop, as a natural person, a business activity related to the above object or enter into an employment relationship with a legal entity with the same object of activity, which is not the case according to the facts of the application. Furthermore, according to the teleological interpretation of the provision of Article 73(par1) of Law 4622/2019, a conflict of interest could arise if the applicant were to engage in professional activities in a legal entity other than the one in which he or she was employed and, due to his or her term of office in that entity, falls within the personal scope of Article 68 of Law 4622/2019. However, in the present case, there is no conflict of interest within the above meaning, as the applicant will continue to be associated with the same legal entity, promoting its objectives, but wishes to enter into a different type of employment relationship with it, i.e., she will continue to provide services to the same entity, but with a different set of duties.

In accordance with the above, in the opinion of the majority, consisting of Menelaos Tsouplakis, President of the Management Board of the National Transparency Authority, Anastasia Zafiriadou and Efstratios Iliadeli, Legal Advisers to the State, and Andreas Pottakis, Ombudsman, the application in question is admissible, as it has the required legal form and the applicant is entitled to submit it as falling within the scope of Articles 68 and



73(par1 and 2) of Law 4622/2019 and, consequently, the Ethics Committee has jurisdiction to examine it on its merits. As provided for in the first subparagraph of Article 73(par1) of Law 4622/2019, the persons referred to in Article 68 of the same law must, for one (1) year after leaving their position, obtain permission for any professional or business activity related to the activity of the body to which they were appointed. And while these persons are required to obtain such permission if the above professional or business activity could create a conflict of interest, the decision on whether such a situation exists is a matter for the Committee and constitutes an examination on its merits of the application. On the application under consideration, the majority accepted that the applicant's new professional activity could not give rise to a conflict of interest, since it would be carried out in the context of cooperation with the same body, namely the legal entity under private law named "Hellenic Film Center" (HFC).

In the opinion of the minority, supported by Mr Dionysios Laskaratos, First Vice-President of the ASEP and regular member of the Committee, the Committee is not competent to examine the substance of the application in question. Specifically, Mr. Laskaratos expressed reservations regarding the competence of the Committee, because the applicant is to provide services to the same legal entity of private law in which she previously served, even if her forthcoming cooperation with the same body is carried out in her capacity as national representative to the EURIMAGES Fund and as a member of the MEDIA Program Management Committee. Furthermore, in his view, the purpose of Article 73(par1) of Law 4622/2019 is to prevent the transfer of knowledge and information acquired by the applicant from his previous employer to a different entity where that person is going to engage in a new professional or business activity.

In view of the above, the Ethics Committee decided by a majority that the applicant's intended professional activity does not entail risk of conflict of interest and therefore grants the applicant the requested permission or her intended activity without any conditions or restrictions.

The Chairman of the Ethics Committee
Menelaos Tsouplakis