

**NATIONAL TRANSPARENCY AUTHORITY****ETHICS COMMITTEE OF ARTICLE 74 OF LAW 4622/2019****DECISION 14/2024**

The Ethics Committee of Article 74 of Law 4622/2019 met in session on March 22, 2024, Friday, at 12:00 p.m., following the invitation of March 15, 2024, sent by email by the Chairman of the Ethics Committee to the other regular members, which was sent by email along with the agenda. The meeting was held by teleconference and was attended by the following members of the Committee: Nikolaos Douladiris, acting, pursuant to the decision of the Management Board of Directors of the National Transparency Authority (NTA) dated January 18, 2024, as Chairman of the Management Board and, by extension, in accordance with Article 74(par.2) of Law No. 4492/2016, as acting Chairman of the Ethics Committee (Chairman), Konstantinos Georgakis, Legal Adviser to the State (regular member), Nikolaos Karagiorgis, Legal Adviser to the State (regular member), Dionysios Laskaratos, First Vice-President of Supreme Court for Civil Personnel Selection (ASEP) (regular member) and Andreas Pottakis, Ombudsman (regular member). Secretarial support was provided by Eleni Magkafa, a secondary education category employee with grade A, of the General Directorate for Financial and Administrative Services and e-Governance of the National Transparency Authority.

The purpose of the above meeting was to discuss the application filed under protocol number 8858/27.02.2024 by Mr., who served as a temporary employee in the position of Director of the Reception and Identification Service of the General Secretariat for the Reception of Asylum Seekers of the Ministry of Migration and Asylum from 23.03.2020 to 23.03.2023 and subsequently, following the extension of his term of office, from 24.03.2023 to 25.01.2024, when he submitted his resignation. The applicant's resignation from this position was accepted by the Minister of Migration and Asylum pursuant to Decision No. 33050/29.01.2024, with effectiveness from 25.01.2024 and published in the Government Gazette YODD 80/02.02.2024.

In his application to the Ethics Committee, he requests permission to take up the position of Director of Security Services Operations at the company named "....." (hereinafter referred to as the Company), which provides security services and is a member of the consortium entitled ".....".



The Article 76(par.4, section B), second paragraph, of Law 4622/2019 (as amended by Law 4940/2022) stipulates that temporarily appointed employees and special advisors, for a period of twelve (12) months from their departure, shall obtain permission, upon an application, from the Ethics Committee referred to in Article 74 for any professional or business activity related to the activity of the body in which they were employed, since this may create a conflict of interest. Such a situation, in accordance with Article 73(par.1), second subparagraph, of Law 4622/2019, arises in particular: (a) through the provision of services on their part - 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 interests or other rights through inheritance. Pursuant to Article 76(par.4, section B), third subparagraph, of Law 4622/2019, paragraphs 3, 4, and 5 of Article 73 of Law 4622/2019 also apply to temporary employees and special advisors. In particular, the Commission, after considering the person's application, 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 request relates. If the Commission does not decide within the specified time limit, the permit shall be deemed to have been granted.

The Committee, which pursuant to Article 73(par.1, section 3), paragraph 4 of Law 4622/2019, may request from the applicant any additional information it deems necessary for making 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 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 the cases referred to in (b) and (c), the Commission may determine reasonable compensation for the person, that is borne by the State Budget.

Firstly, the application in question is admissible before the Commission, since, on one hand, it has the required legal form of an application under Article 73(par.1) and (par.2) of Law 4622/2019 and, on the other hand, it is submitted by a person who is legally entitled to do so, as he falls within the persons referred to in Article 76(par.4, section b) of Law 4622/2019 (as amended by Law 4940/2022), according to which temporary appointed employees and special advisors are required to obtain permission, upon request to the Ethics Committee of Article 74 of the same law, for any professional or business activity related to the activity of the body in which they were employed, since this could create a conflict of interest. In this case, the applicant, pursuant to Decision No. 2657/02.04.2020 of the Minister of



Migration and Asylum, published in the Government Gazette YODD 245/06.04.2020, was appointed as a temporary employee in the Special Positions category with grade B, in the position of Head of the Reception and Identification Service of the General Secretariat for the Reception of Asylum Seekers of the Ministry of Migration and Asylum for a three-year term starting on 23.03.2020. Subsequently, by Decision No. 113617/23.02.2023 of the Minister of Migration and Asylum, published in the Government Gazette YODD 185/03.03.2023, his term of office as a temporary employee in the above position was extended from 24.03.2023 for a period of three years. He therefore, falls within the scope of Article 76(par.4, section b) of Law 4622/2019. On 25.01.2024, the applicant submitted his resignation from the position in question, which was accepted with effect from 25.01.2024 pursuant to Decision No. 33050/29.01.2024 of the Minister of Migration and Asylum (Government Gazette YODD 80/02.02.2024), therefore one year has not yet elapsed since the applicant's retirement, who is subject to the obligation to obtain a permission from the Ethics Committee.

In order to investigate the existence of a connection between the activity of the organization for which the applicant worked and the professional activity that the applicant wishes to take up, it should first be noted that the Reception and Identification Service to which he was assigned, is hierarchically and organizationally subordinate to the General Secretariat for the Reception of Asylum Seekers, in accordance with Article 2 of the Organization of the Ministry of Migration and Asylum (Presidential Decree 106/2020, Official Gazette A 255/23.12.2020). Article 33(par.1) of the above Presidential Decree stipulates that this Service operates at the level of a General Directorate and has as its strategic objectives, the organizational and operational harmonization of the central and regional Reception and Identification Services, the identification of needs for the establishment and expansion of reception centers and accommodation facilities, the responsibility for coordinating the actions of the Reception and Identification Services with the actions of the other services of the Ministry and the effective implementation of the procedures for the reception, identification, and temporary accommodation of third-country nationals or stateless persons entering Greece without the legal formalities.

According to Article 33(par.2) of the above Presidential Decree, the Reception and Identification Service consists of the following organizational units: a. Directorate of Reception and Identification Centers (RIC) and Closed Controlled Assess Centers of Island Structures (CCAC), to which the Reception and Identification Centers are subordinate, the Closed Controlled Island Structures and the Asylum Seeker Accommodation Structures located on the Aegean islands, b. Directorate of Structures of Northern Greece, c.



Directorate of Facilities in Southern Greece, which oversees the Asylum Seeker Accommodation Facilities throughout the country, except for those located on the Aegean islands, d. Support Directorate, whose operational objective is to plan, implement, and supervise programs and actions aimed at fulfilling the country's obligations under national and EU legislation on reception, and ensuring the conditions for the proper exercise of the powers of the Reception and Identification Service as a whole, in cooperation with the competent Directorates-General of the Ministry and other competent services; and e. Independent Emergency Response Department, which reports directly to the Head of the Reception and Identification Service and is responsible for coordinating and achieving interoperability between all actors involved in emergency situations, the implementation of operational response plans, the provision of advisory support to the Director of the Reception and Identification Centers and the Structures for the management of critical or emergency situations, organizing exercises, with the participation of all relevant bodies, with a view to improving coordination, interoperability and optimizing response mechanisms at national, regional and local level, monitoring the smooth operation of the RIC and the Structures through electronic systems and communication with the staff of the Reception and Identification Service from the RIC., the CCAC and the Accommodation Structures throughout the country, informing and mobilizing the services involved and other bodies to deal with critical or emergency situations, daily recording on a special form of all incidents handled by either the Reception and Identification Service or other services within the RIC and CCAC and Accommodation Facilities throughout the country, cooperation with the bodies involved in dealing with serious incidents within the RIC and CCAC and Accommodation Facilities, such as earthquakes, floods, major road or rail accidents, and fires.

Although there is a clear distinction between the activities of the organization where the applicant was employed and those of the security services company he now wishes to join, it is important to note a point of relevance between the two. Specifically, the Ministry of Migration and Asylum — to which the Reception and Identification Service (the applicant's former workplace) is directly subordinate — is connected to the company through its participation as a member of the consortium "....." This consortium was selected as the lowest bidder in two of the six sections of the Framework Agreement for the project "Provision of facilities management services for all types of temporary reception and accommodation structures for asylum seekers, refugees, and migrants", as well as related infrastructure and facilities, together with the building infrastructure of all services under the Ministry of Migration and Asylum.



This Agreement was concluded following a public international electronic tender in accordance with Article 39 of Law 4412/2016. From the documents submitted with the applicant's application — namely the first- and second-stage tender notices and the relevant parts of the above Framework Agreement — it is evident that the contracting authority was the Ministry of Migration and Asylum. Furthermore, both during the issuance of the tender notices and throughout the execution of the Framework Agreement, the Ministry was represented by the Secretary General for Migration Policy.

Furthermore, the Reception and Identification Service is not an independent service but is hierarchically and organizationally subordinate to the General Secretariat for the Reception of Asylum Seekers, in accordance with Article 2 of the Organization of the Ministry of Migration and Asylum, and therefore does not have a financial department or technical service to manage financial and technical issues relating to the implementation of the Framework Agreement. The Ministry of Migration and Asylum, on the other hand, has the necessary services to act as the contracting authority in accordance with Law 4412/2016 and, in particular, the tender procedure may be carried out either by the Procurement and Operational Support Directorate of the General Directorate for Administrative and Financial Services or by the Technical Service of the Ministry of Migration and Asylum, in accordance with Articles 14 and 19 of Presidential Decree 106/2020, respectively.

The only involvement of the Reception and Identification Service in the above tender procedure consists, as expressly stated by the applicant in its application, in the drafting of request No. 10281/17.05.2021 to the Technical Service of the Ministry of Migration and Asylum for the conduct of a competitive procedure with a view to concluding an agreement for the provision of cleaning, security and maintenance services at its regional offices, with a detailed description of the relevant needs, the costs involved and the conditions to be met by the candidate entities, in response to requests made in official documents sent in 2021 by the Secretary General for the Reception of Asylum Seekers and the former Minister of Migration and Asylum, calling on the Director of the Technical Service and the competent persons, including the applicant's former position as the Head of the Reception and Identification Service, to take the necessary steps to transfer the responsibilities for the security and cleaning of the reception and identification centers and accommodation facilities from the Ministry of National Defense to the Ministry of Migration and Asylum. Following the signing of the Framework Agreement, the Reception and Identification Service, as the competent service for the operation of the structures referred to in Article 8 of Law 4375/2016 (Reception and Identification Centers, Closed Controlled Structures, and



Controlled Temporary Accommodation Structures for Asylum Seekers) and addressed to the Technical Service, in particular for each structure, official memos setting out the existing needs of each structure for the provision of cleaning and security services in view of the signing of the executive Framework Agreement contracts. It should be noted that the needs for the above structures are determined at the request of the Regional Service Administrator and following an assessment by the operational department to which the structure in question belongs.

In addition, with regard to the financing of this Framework Agreement, the Technical Project Sheets (TPS) were signed by the then Minister of Migration and Asylum, and subsequently authorized the Secretary-General for the Reception of Asylum Seekers, by Decision No 13429/2020, to issue decisions approving the relevant technical sheets. Consequently, the Secretary-General for the Reception of Asylum Seekers signed the latest technical data sheets for the project's financial bridge, while the Secretary General for Migration Policy issued calls for funding for the project, as well as decisions to include the individual project implementation actions in the funding program "Greece Program - Financial Support Instrument for Border Management and Visa Policy of the Fund for Integrated Border Management 2021-2027." Finally, the Technical Service, as evidenced by the relevant documentation submitted with the application, requested the Head of the Reception and Identification Service and the Head of the Asylum Service to appoint one regular and one alternate member to the Monitoring and Acceptance Committee for the implementation contracts of the departments of the Framework Agreement, as well as to designate a supervisor and a deputy supervisor for each location, i.e. for each structure referred to in Article 8 of Law 4375/2016. In this context, the applicant proposed the appropriate persons for each structure, who were appointed to staff the above committee and to perform supervisory tasks by decision of the Secretary General for Migration Policy.

Consequently, it follows from the above that, with regard to both the above-mentioned tender procedure and the signing of the Framework Agreement, to which the company in which the applicant wishes to be employed was a party, the conclusion of the contracts implementing it and the securing of financing for the execution of the project, the applicant did not have decisive powers, but only powers to assist the contracting authority at intermediate stages of the tender procedure in the form of response to relevant official documents requesting him to identify the needs of the structures under the supervision of the service he headed and, on the other hand, responsibilities for assisting in the implementation of the Agreement-Framework indicating the persons who would staff the Monitoring and Acceptance Committee for parts of the project and perform supervisory



tasks.

In terms of a general comparison of his responsibilities during his tenure at the Reception and Identification Service with the duties he wishes to take on, it should be noted that, according to Article 60 of Presidential Decree 106/2020, the Head of the Reception and Identification Service is responsible for a. aligning the strategic objective of the Reception and Identification Service with the mission of the Ministry of Migration and Asylum, b. coordinating the heads of the organizational units under the Reception and Identification Service to achieve their operational objectives, c. providing informed recommendations to political leaders, following data analysis and risk assessment, and formulating alternative options; d. ensuring horizontal cooperation between the Directorates-General of the Ministry and other public administration bodies, e. taking initiatives on crisis management, f. managing and utilizing staff to achieve the established objectives, g. approving job descriptions for the subordinate organizational units, h. proposing annual targets and monitoring them on the basis of established performance indicators, continuously improving the functioning of organisational units by submitting proposals for organisational and operational redesign, i. evaluating staff in accordance with the applicable institutional framework, j. representing the Reception and Identification Service within the scope of its duties or upon specific instruction from its hierarchical superiors. Additional duties arising from responsibilities described in more specific legislation or in more specific relevant regulatory provisions shall remain in force.

With regard to the specific responsibilities of the position that the applicant wishes to take up in the above-mentioned security services company, as pointed out in his application and as evidenced by the document accompanying the application, his responsibilities will include coordinating the planning and execution of the Company's projects, ensuring that financial targets are not exceeded by the operational functioning of security services, reviewing financial information and adjusting operating budgets to promote profitability; ensuring the quality, optimal functioning of the security services provided and performance management; reviewing and shaping policies and procedures and promoting their implementation, planning and managing important security, risk and project assessments, managing relationships and agreements with external partners or stakeholders, planning, monitoring and analyzing key metrics for daily operations, forecasting human resource requirements for upcoming projects, team building, ensuring alignment with the commercial team to achieve the Company's goals in a timely manner, communicating with customer security managers (or other representatives) to resolve routine issues and seeking or providing clarification on the execution of the contract in question. The person in this



position leads the Company's security services nationwide in the following areas: Security (Guard Services), Patrols, Migrant Facilities, Security in Private Residences. In addition, this person works primarily within the Company with the director and executives of the human resources department, the sales director and executives of the commercial department, as well as with the person responsible for the Company's business and financial operations. Based on the description of the position proposed to him, the responsibilities do not include external contacts with public services or other bodies. As he clarified in his application, this position does not involve participating in or representing the Company in any contract negotiations or contract conclusion, in submitting bids in tenders, or in providing security or consulting services within the scope of his responsibilities.

Therefore, the job description for the position he is seeking at a private legal entity includes certain tasks that could raise issues of relevance to the position he held at the Identification and Asylum Service, such as managing agreements with external partners or stakeholders, communicating with customer security officers to resolve routine problems, and seeking or providing clarification on the performance of a contract. However, these tasks do not involve the conclusion of a contract for the provision of security services or the negotiation of its terms with potential customers, which may include public bodies, but it is clear from the list of tasks assigned to him that they are limited to communicating with external bodies to provide clarification on the performance of a contract that has been concluded or on the specific human resource requirements of the body concerned to check the feasibility of contracts under negotiation. Furthermore, communication with the company's customers, as he himself explains, concerns the resolution of routine issues or the clarification of certain specific details regarding the performance of specific contracts and not the taking of decisions on their conclusion.

Furthermore, his responsibilities of the former position did not include communication with external bodies, either in view of the negotiation of a service contract for structures under the supervision of the Ministry of Migration and Asylum or for the formulation of proposals and the search for or provision of information to candidate service providers to the Ministry and bodies under its supervision. Based on the duties of the position held by the applicant, as set out in Article 60 of Presidential Decree 106/2020, his communication during his term of office was limited to contacts within the Reception and Identification Service with his subordinates and within the General Secretariat for the Reception of Asylum Seekers of the Ministry of Migration and Asylum with his superiors.

As analyzed in relation to the aforementioned competition procedure, he merely responded to written questions from his superiors. Furthermore, the competence conferred on him by



Article 60 of Presidential Decree 106/2020 on the representation of his Service was limited to his duties and did not extend to establishing communication with candidate service providers in the structures under the supervision of the Ministry of Migration and Asylum. Therefore, it cannot be considered that, by taking up the position he desires, he will be called upon to develop contacts with his former subordinates or with the person who replaced him in his duties as Director of the Reception and Identification Service, nor with his former superiors who have the power to negotiate or conclude an agreement or to entrust its implementation to a specific service provider, because his new position, as he expressly states in his application, does not include participation or representation of the Company in any negotiation, conclusion of a contract, submission of a tender in a tender procedure, provision of security services or consulting services in its area of responsibility.

During the examination of the application under consideration, Mr. Andreas Pottakis, member of the Ethics Committee, expressed the opinion that this case constitutes a “revolving door” situation. Although the job description of the new position offered to the applicant does not include the negotiation of contract terms or the conclusion of contracts, the issue arises from the fact that a contract has already been concluded between the Ministry of Migration and Asylum and the Consortium, of which the company where the applicant wishes to work is a member, and this is the above-described Framework Agreement, which was concluded during the applicant's term of office. Furthermore, to date, no case has been brought before the Ethics Committee in which the applicant has taken up a position directly related to the portfolio he previously held. The Committee has, however, ruled on cases where there was a certain connection between the applicant's previous and desired new professional activities, concluding that a condition should be imposed on the applicant not to enter into a contract or negotiate the terms of a contract between their previous and desired employer, rather than prohibiting the activity sought, because, in the Commission's view, the applicant had not participated in the decision to award a contract to a specific private individual which fell within its supervisory remit for as long as it held a senior position in a public body, and because there was no contract concluded with a body supervised by it during its term of office.

However, in the case under consideration, there is a contract between the applicant's former and new employers. Although the applicant, as Head of the Reception and Identification Service, did not play a decisive role in the selection of the specific consortium for the provision of facility management services to the Ministry of Migration and Asylum and its subordinate services and structures, he was the head of that service and now wants to take up a management position in one of the companies of the above-mentioned consortium,



which will continue to provide its services to the service where the applicant previously worked. The new employer under the existing contract will provide its services to the body where the applicant previously worked. This contractual relationship between the applicant's former and desired new employer establishes a conflict of interest and that the requested permit should therefore not be granted. Furthermore he added that the refusal to grant the requested permit did not constitute a restriction on the applicant's freedom to conduct a professional activity, since if the company where the applicant wished to work had not entered into a contract with the Reception and Identification Service, the issue would not have arisen.

In view of the above, the Commission decides by a majority to grant the applicant the permission to pursue the professional activity he wishes, as specified in his application, on condition that he refrains, until the end of his term as Head of the Reception and Identification Service, i.e. until January 25, 2025, from any negotiation of contract terms/conclusion of a contract with the Ministry of Migration and Asylum and bodies subject to its supervision.

The Chairman of the Ethics
Committee

Nikolaos Douladiris