

NATIONAL TRANSPARENCY AUTHORITY

ETHICS COMMITTEE OF ARTICLE 74 OF LAW 4622/2019 DECISION

16/2024

The Ethics Committee of Article 74 of Law 4622/2019 met in session on April 12, 2024, Friday, at 9:30 a.m. following the invitation of 05.04.2024 by the acting Chairman of the Ethics Committee to the other regular and alternate members, which was sent by email after the daily agenda: 1. Nikolaos Douladiris, acting pursuant to the decision of the Management Board of Directors the National Transparency Authority/*Management Board of 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 (Chair), 2. Periklis Aggelou, Legal Adviser to the State (alternate member) as substitute for the regular member, Konstantinos Georgakis, Legal Adviser to the State, who declared his inability to attend in writing on 05.04.2024, 3. Nikolaos Karagiorgis, Legal Adviser to the State (regular member) and 4. Andreas Pottakis, Ombudsman (regular member). The other regular member, Dionysios Laskaratos, First Vice-President of Supreme Council For Civil Personnel Selection (ASEP), and his deputy, Eleftherios Makrilakis, Vice-President of Supreme Council For Civil Personnel Selection (ASEP), were unable to attend this meeting, as they informed the Secretariat of the Ethics Committee in writing on April 5, 2024, and April 8, 2024, respectively. This meeting of the Ethics Committee as a five-member administrative body was held legally in accordance with the provisions of Article 14(1)(a) of the Code of Administrative Procedure (Law 2690/1999), as more than half of its appointed members participated, namely three regular members and one alternate member, four in total, and therefore there was a quorum. Secretarial support was provided by Eleni Magafa, 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 to discuss the application with incoming protocol number 15039/03.04.2024 submitted by Ms., who served as special advisor-associate in the office of the Governor of the Legal Entity



of Public Law named "National Health Services Organization," for the period from December 28, 2020, to March 2, 2024, when she left that position. The applicant stated that she wishes to be employed by the company under the name "....." in the position of Corporate Affairs Director.

Article 76(4B) of Law 4622/2019 (as amended by Law 4940/2022) stipulates that temporarily appointed employees and special advisors who have served in offices of members of the Government, Deputy Ministers, as well as General and Special Secretaries, after the end of their duties for any reason, submit a statement to the Head of the General Directorate responsible for personnel matters of the relevant body, if there is, or to the Head of the Directorate responsible for personnel matters, regarding the professional activity they will undertake for a period of twelve (12) months from their departure, they are required to obtain permission, upon request, 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, if a conflict of interest may arise. Such a situation, in accordance with Article 73(1)(b) of Law 4622/2019, arises in particular: (a) by providing 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 acquiring shares, corporate shareholdings or other entitlements through inheritance.

Pursuant to Article 76(4B) (c) of Law 4622/2019, paragraphs 3, 4, and 5 of Article 73 of Law 4622/2019 also apply to temporarily appointed employees and special advisors. In particular, after considering the person's request, the Committee shall, within a period of one (1) month, issue a reasoned decision. During this period, the person must refrain from conducting the activity to which the application relates. If the Committee does not decide within the specified time limit, the permit shall be deemed to have been granted. The Committee, which, on the basis of Article 73(3)(d) of Law 4622/2019, may request from the applicant any additional information it considers necessary for its decision, may, may, by its decision, taken at its discretion, pursuant to Article 73(4) of Law 4622/2019, which shall be 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 completely. 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 application in question is not admissible before the Ethics Committee, as although it has the required legal form of the application under Article 73(1) and (2) of Law 4622/2019, but it is not submitted by a person who is obliged and authorized to do so, because the applicant does not belong to the persons referred to in Article 68 of the above law, which includes in its personal scope of application members of the Government, Deputy Ministers, General and Special Secretaries, Coordinators of Decentralized Administrations, Governors or Heads of Independent Authorities, as well as Presidents, Vice-Presidents, Governors, Deputy Governors, Deputy Governors, managing or appointed advisors of legal entities governed by public law (N.P.D.D.) and private law (N.P.I.D.), whose selection is the responsibility of the Government, nor to the persons referred to in Article 76 of the above law, which includes in its personal scope of application temporarily appointed employees and special advisors in offices of members of the Government, Deputy Ministers, as well as General and Special Secretaries.

In particular, Article 76(4B) of Law 4622/2019, as above, provides, on the one hand, for the obligation of temporary employees and special advisors who have served in the above special offices, after the termination of their duties for any reason of their duties, to submit a declaration to the Head of the General Directorate responsible for personnel matters of the relevant body, if any, or the Head of the Directorate responsible for personnel matters, regarding the professional activity they intend to pursue (subparagraph a) and, on the other hand, their obligation, for a period of twelve (12) months from their departure, to obtain permission, upon application to the Ethics Committee, for any professional or business activity related to the activity of the body in which they were employed, if this could give rise to a conflict of interest (subparagraph b).

In the context of systematic interpretation, the above obligations are incumbent only on temporarily appointed employees and special advisors who serve as associates in accordance with Article 46(1) of Law 4622/2019 in the special offices of members of the Government, of Deputy Ministers, General Secretaries, and Special Secretaries. Furthermore, it is noted that Article 47(1) of the above law provides that the positions of associates shall be filled: (a) by means of a recruitment act signed by the body responsible for the appointment or (b) in the case of secondment, by joint decision of



the host Minister and the competent Minister of origin. The acts referred to in the previous paragraph shall be published in the Government Gazette. In addition, Article 48 of the same law specifies the minimum qualifications of persons filling the positions of associates in the special offices referred to in Article 46, which include, among other things a good knowledge of the language of an EU country, and it is expressly stated that, for the positions of associates in those special offices, the general qualifications for appointment required for public civil servants are required.

In this case, the applicant was recruited by the public entity known as the "National Health Services Organization" (hereinafter "EOPYY") on December 28, 2020, as a special advisor-associate in the Office of the Governor under a private agreement—a fixed-term employment contract under private law—pursuant to Article 10 of Law No. 4366/2016, which was in force at the time. 2020 as a special advisor-associate in the Office of the Administrator on the basis of a private agreement - fixed-term employment contract under private law, pursuant to Article 26(8) of Law 3918/2011. In accordance with this article, in order to meet the needs of the President of EOPYY, three positions of special advisors or scientific or special associates are established, for the recruitment of whom, as, the minimum qualification is defined as exclusively the possession of a degree from a Higher Educational Institution in Greece or equivalent abroad and who are hired under a fixed-term private law employment contract. Article 20(5) of Law 3918/2011 provides that the Director of EOPYY is the Chair of the Board of Directors. It therefore follows that the applicant's appointment as special advisor to the Office of the Director of EOPYY on December 28, 2020, was made in accordance with the provisions of Article 26(8) of Law 3918/2011 concerning the coverage of the needs of the Office of the then Director of EOPYY. 2020 was in accordance with the provisions of Article 26(8) of Law 3918/2011 concerning the coverage of the needs of the Office of the then interim Governor and Chair of the Administrative Council of EOPYY.

Therefore, in view of the above, it appears that the applicant does not belong to the persons who hold positions of associates in accordance with Articles 46 and 47 of Law 4622/2019, nor is she in any way equivalent to such persons and, consequently, there is no question of applying the provisions of Article 76 of the same law concerning the above persons in her case. Furthermore, the imposition of an obligation is always in accordance with the literal interpretation of the relevant provision from which it derives, and provisions imposing obligations on citizens must not be interpreted broadly.



Consequently, in view of the above, the Ethics Committee unanimously decides that the applicant, in her capacity as former special advisor-associate in the office of the Director of EOPYY, does not fall within the scope of Article 76 of Law 4622/2019 and is not required to seek the permission of the Ethics Committee under Article 74 of Law 4622/2019 in order to pursue the professional activity she wishes to pursue after leaving the above position. Therefore, her application is rejected as inadmissible.

Acting Chairman of the Ethics
Committee

Nikolaos Douladiris