

**NATIONAL TRANSPARENCY AUTHORITY****ETHICS COMMITTEE OF ARTICLE 74 OF LAW 4622/2019****DECISION 7/2023**

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The Ethics Committee of Article 74 of Law 4622/2019 met in session on July 19, 2023, Wednesday at 10:00 a.m., following the invitation of the Chairman to the other regular and alternate members dated 13.07.2023, 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 (Chair), Dionysios Laskaratos, First Vice-Chairman of the Supreme Council 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 of Financial and Administrative Services and e-Governance of the National Transparency Authority.

The other two regular members, Anastasia Zafiriadou, Legal Advisor to the State, and Efstratios Iliadelis, Legal Adviser to the State, informed the Secretariat of the Ethics Committee in writing on 04.07.2023 that they were resigning from the Committee due to taking up the positions of inspectors, within the body in which they serve, which are exercised on an exclusive basis and therefore make it impossible for them to retain their status as members of the Committee. Subsequently, on the same day, the National Transparency Authority duly sent a document to the Office of the President of the Legal Council of the State, requesting the replacement of the regular members of the Ethics Committee established within the National Transparency Authority who were appointed by the Legal Council of the State. Following this, the National Transparency Authority was informed by the Vice-President of the Legal Council of the State that the appointment of new members of the Committee was temporarily impossible because the former Chairman had recently retired and a new member of the Legal Council of the State has yet to be appointed as its Chair.

Article 13(par.1), third subparagraph, of the Administrative Procedure Code (Law



2690/1999) stipulates that if certain members of a collective body are elected or appointed by third parties and those members have not yet been elected or appointed by the competent bodies, the formation is lawful if their election or appointment has been requested in writing in good time and the remaining members are sufficient to constitute a quorum. Paragraph 5 of the same article provides that the collective body may function, but not for more than three months, if any of its members cease to exist or resign for any reason or lose the capacity on the basis of which they were appointed, provided that, at its meetings, the remaining members are sufficient to constitute a quorum. The resignations of the two regular members of the Committee, who were members of the Legal Council of the State, were announced to the Secretariat of the Committee in writing by email on July 4, 2023. Consequently, three months have not yet elapsed since the written notification of the resignation of the aforementioned members. The Committee has a quorum, as three of its five regular members, namely the Chairman, Menelaos Tsouplakis, the member from the Supreme Council For Civil Personnel Selection (ASEP), Dionysios Laskaratos, and the member from the Ombudsman, Andreas Pottakis, still hold their positions as members of the Committee and, for this reason, the Ethics Committee met legally on 19.07.2023.

The purpose of the above meeting was to discuss the request with protocol number 29289 EI 2023/05.07.2023 submitted by Ms. ...., who served in the office of the Minister of Development and Investments, Ms. ...., for the period from May 26, 2023, to June 27, 2023, when her resignation was accepted. The applicant stated that she wishes to work as a lawyer-legal advisor in the civil non-profit company under the name " ..... " and distinctive title "....." (hereinafter referred to as " ").

Article 76(par.4B), second subparagraph, of Law 4622/2019 (as amended by Law 4940/2022) stipulates that seconded employees and special advisors for a period of twelve (12) months from their departure, must obtain permission upon request from the Ethics Committee of Article 74 for any professional or business activity related to the activity of the body in which they were employed, if this could 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 governed by 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. Pursuant to Article 76(par.4B), third subparagraph, of Law 4622/2019, paragraphs 3, 4, and 5 of Article 73 of Law 4622/2019 also apply to temporary appointed 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 performing the activity to which the application relates. If the Commission 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), fourth subparagraph, of Law 4622/2019, may request from the applicant any additional information 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) authorise the activity in question 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 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, it is submitted by a person who is legally entitled to do so, as she falls within the persons referred to in Article 76(par.4b), second subparagraph, 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 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 this could create a conflict of interest. In this case, the applicant, by decision No. 52684/08.06.2023 of the Minister of Development and Investment, issued in accordance with Articles 45, 46, 47, 48, 76, and 110 of Law 4622/2019, a summary of which was published in the Government Gazette 553/τ.YOΔΔ/09-06-2023, was hired, as of May 26, 2023, in the office of the Minister of Development and Investment, Ms. ...., in the position of temporary appointed associate and therefore falls within the scope of Article 76(par.4)(b), second subparagraph, of Law 4622/2019.

Next, it must be examined whether the exercise of the professional activity desired by the applicant could in fact create a conflict of interest. In particular, with regard to the



exact scope of the applicant's responsibilities during her term of office in the private office of the Minister of Development and Investment, as she herself stated in the additional information she submitted on July 14, 2023, she was responsible for checking incoming documents from the services headed by the Minister, but also for checking draft joint ministerial decisions from other ministries, in order to advise the Minister on the signing of those documents or on the appropriate response to them. Moreover, it was a short-term assignment within the Ministry of Development and Investment, which means that the usual volume of activity of that Ministry was extremely reduced and limited to formal matters. Furthermore, the information provided shows that during the period 2019-2021, she served in the office of the then Deputy Minister of Development and Investment and during that period she participated in a working group tasked with supporting the Secretary General of Public Investment and the NSRF in the preparation of the new NSRF 2021-2027 programs with a view to their approval by the European Commission.

With regard to the subject of the new professional activity she wishes to pursue as legal advisor to the non-profit civil company with the distinctive title ".....", it should first be noted that, the ..... is responsible for managing state aid actions financed either from national or co-financed resources. Furthermore, it appears from the website of ..... that its activities include, in particular, the publication of calls for proposals and the provision of information to potential beneficiaries, the receipt of proposals from candidates, the evaluation of those proposals in accordance with the provisions of the applicable institutional and regulatory texts, the publication of the approval decision and the individual decisions on the inclusion of operations and the information of all potential beneficiaries who have submitted an investment proposal, the signing of contracts with beneficiaries, monitoring the progress of the implementation of the beneficiaries' projects, securing public funding and payment of the beneficiaries of the actions, monitoring the operation of investment projects after their completion for the period required by the regulations, as well as the formulating of an opinion on the content of the calls for proposals managed by ..... before and after the publication of the respective calls.

The specific tasks of the applicant, as described by herself in the supplementary information provided (point 2b), will consist of providing legal assistance in the drafting of documents relating to the management of State aid actions, and in particular in the drafting of documents specifying the conditions for participation in individual



actions, the criteria for evaluating candidates' proposals and the criteria for monitoring the implementation of funded projects and compliance with the beneficiaries' long-term obligations. It should be noted that a member of the Board of Directors of .....is the Secretary General for Public Investment and the NSRF or his deputy. The applicant has, as mentioned above, provided assistance to the Secretary General for Public Investment and the NSRF in the past and therefore wishes to return to a subject with which it is already familiar from its previous term at the Ministry of Development and Investment, thereby essentially assisting the work of the Secretary General for Public Investment and the NSRF and ensuring the proper implementation of EU and national legislation on the management and control of state aid actions.

Consequently, it follows from the above, that there is no conflict of interest between the applicant's duties as a temporary appointed assistant to the Minister of Development and Investment and the duties she wishes to take on as legal advisor to ..... there is no connection that could lead to a conflict of interest, since during her short term at the Ministry, she merely processed incoming documents and provided advice on how to respond to them. Although the..... is supervised by a Supervisory Board set up within the Ministry of Development and Investment, the applicant, according to her statement, did not participate in any way in this board or in any other committee set up within the Ministry, so that it could be considered that she wished to join a body supervised by the body she had previously served and that she would benefit from her previous position which she would use exclusively for the benefit of her new employer. On the contrary, the new body of her desired employment, .....is a body related to the Ministry of Development and Investment in the field of managing public aid actions and their common interest in this field is the legally correct management of public aid programs. The applicant's intended professional role is to assist with a project that falls within the remit of the Ministry of Development and Investment, specifically the portfolio of the Secretary-General for Public Investment and the National Strategic Reference Framework, namely the management of state aid actions in accordance with applicable EU and national legislation. The applicant is indeed the right person for this job, given her specific experience from being part of the working group that helped the Secretary General for Public Investment and the NSRF from 2019 to 2021.

Moreover, according to the teleological interpretation of Article 73(par.1) of Law 4622/2019, a conflict of interest could arise if the applicant were to work for a private



legal entity where she could, due to her previous term of office in the office of the Minister of Development and Investment, either provide privileged information or secure favorable treatment on the basis of the professional acquaintances and relationships she established during her term of office, which would be detrimental to the impartial evaluation of applications from potential beneficiaries for inclusion in public aid actions. However, in the present case, there is no conflict of interest within the meaning of the above, as the applicant will not be employed by a legal entity that is a potential beneficiary of a specific state aid measure, but will continue to assist the same Ministry indirectly, with a completely different set of tasks from those she performed in the private office of the Minister of Development and Investment, taking on the legal support of a project included in the broader portfolio of the Ministry of Development and Investment, namely the General Secretariat for Public Investment and the NSRF, which she also assisted in 2019-2021.

Furthermore, taking into account the applicant's statement contained in the application and in the supplementary information thereto, according to which her intended professional activity will consist of her future duties as legal advisor to the.....and in providing legal support in the management of state aid measures and in drafting the relevant documents (e.g., criteria, conditions, evaluation, checks on implementation and long-term obligations), with the aim of ensuring compliance with the applicable management and control systems and with the EU and national State aid rules, the Commission unanimously concludes that the applicant's above statement must be understood as meaning that its future professional activity will be limited to those tasks.

Consequently, in the light of all the above, the Commission unanimously decides to grant the applicant the requested permission to pursue her intended professional activity as specified in her application dated July 4, 2023, and in the additional information referred to above.

The Chairman of the Ethics Committee

Menelaos Tsouplakis