

NATIONAL TRANSPARENCY AUTHORITY
ETHICS COMMITTEE OF ARTICLE 74 OF LAW 4622/2019

DECISION 9/2023

The Ethics Committee of Article 74 of Law 4622/2019 met in session on October 10th, 2023, Tuesday at 10:00 a.m., following the invitation of the Chairman to the other regular and alternate members dated 05.10.2023, 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 (Chairman), Konstantinos Georgakis, Legal Advisor to the State (regular member), Nikolaos Karagiorgis, 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 Magafa, 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 purpose of the above meeting was to discuss the application with incoming protocol number 40223/26.09.2023 submitted by Mr., former Secretary General of Health Services from September 2019 to July 2023, during which time he resigned. The applicant wishes to be granted permission by the Committee to take up the position of General Manager at a non-profit Association of Pharmaceutical Companies, which represents research and development companies, with the aim of meeting the medical needs of patients in Greece. This application was completed after additional information requested by the Committee pursuant to Article 73(par.4, section d) of Law 4622/2019, was provided.

Pursuant to Article 73 of Law 4622/2019, it is stipulated, among other things, that persons appointed to the positions referred to in Article 68 of the same law,

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) General and Special Secretaries, as well as



Coordinators of Decentralized Administrations, (c) heads of public entities and heads of public agencies, (d) heads of public entities and heads of public agencies, (e) heads of public entities and heads of public agencies, 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 Governors, Interim Governors, Sub-Governors, managing or executive directors 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, given the fact that this could 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 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.

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 must 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 carrying out 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) 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 shall be published on the website of the National Transparency Authority: (a) to allow 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 the decisions 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 Committee, 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 68(par.1,sectionb) of Law 4622/2019, which includes General and



Special Secretaries within its personal scope of application. In this case, the applicant served from September 2019 to July 2023 as General Secretary of Health Services by virtue of a joint decision of the Prime Minister and the Minister of Health. On July 21, 2023, the applicant submitted his resignation from the above position, which was accepted by a joint decision of the Prime Minister and the Minister of Health.

Next, it must be examined whether the pursuit of the professional activity desired by the applicant, is actually capable of giving rise to a conflict of interest. In order to investigate the existence of a connection between the activity of the body for which the applicant worked and the professional activity that the applicant wishes to undertake, it should be noted that the General Secretary of Health Services is responsible for supervising, immediately after the Minister and the Deputy Minister, of the services falling within the General Secretariat and, as follows from Article 8 of Presidential Decree 84/2019 (Government Gazette A 123/17-07-2019), the General Directorate of Health Services, the Independent Department for the Protection of the Rights of Health Service Users, the Independent Department for the Organization and Operation of Health Regions (Y.P.E) and the Independent Department of Procurement. According to the Organisation of the Ministry of Health, i.e. Presidential Decree 121/2017 (Government Gazette A 148/17-07-2017), the General Directorate of Health Services aims to ensure universal and equal access to the provision of qualitatively and quantitatively adequate health care services by the National Health System and to regulate and supervise private health care providers. Pursuant to the above Presidential Decree, the Independent Department for the Protection of Health Service Users' Rights focuses on policy-making for the protection of the rights of health service users, the Independent Department for the Organization and Operation of Health Regions is responsible for the organization, operation, and supervision of Health Regions, while the Independent Department of Therapeutic Protocols and Patient Registers is responsible for developing, processing and updating diagnostic and therapeutic prescription protocols, as well as patient registers. In addition, the former Deputy Minister of Health transferred to it responsibilities relating to the following organizational units: the Mental Health Directorate, the Medical Directorate, Other Health Scientists and Professionals, except for responsibilities relating to the design and implementation of education, retraining, specialization and continuing professional development policies, the Nursing Directorate and the Independent Department for the Protection of the Rights of Health Service Users. Apart from the above, no other responsibilities were assigned to him other than participation in or coordination of working groups. It is crucial to determine whether these groups were involved in the conclusion of contracts for the supply of medicines to the health care services of the National Health System or to private health care providers.



With regard to the specific responsibilities of the position that the applicant wishes to take up in a non-profit association of pharmaceutical companies representing research and development companies with the aim of meeting the medical needs of patients in Greece, he clarified that his responsibilities would include representing the Association at meetings and conferences, promoting the Association's objectives, monitoring pharmaceutical policy on behalf of the Association, formulating an appropriate communication policy and developing channels of communication with partners in the pharmaceutical sector, such as the Hellenic Association of Pharmaceutical Companies (SFEE), the Panhellenic Union of Pharmaceutical Manufacturers (PEF), the European Federation of Pharmaceutical Industries and Associations (EFPIA) and the Hellenic-American Chamber of Commerce. In his capacity as General Director, he will be responsible for guiding and encouraging the working groups to develop an organizational culture aligned with the Association's core objectives.

Consequently, the activities of the association which the applicant wishes to join, are to some extent related to the general responsibilities of the General Secretariat for Health Services. In particular, first, the General Secretariat for Health Services supervises, among other things, the General Directorate for Health Services, which is responsible for ensuring the adequacy of health services care of the National Health System, as well as the supervision of private healthcare providers. The above responsibilities naturally include checking the adequacy of medicines and other pharmaceutical products in public and private healthcare providers. Therefore, when checking the adequacy of medicines in these institutions, information was collected on the medicines and other pharmaceutical products that were needed and, any shortages of medicines and other preparations necessary for the provision of public and private healthcare services were inevitably recorded. Furthermore, the Association's activity consists in conducting surveys to cover the medical needs of patients in Greece, i.e. the research carried out by the Association will identify the need for the manufacture or import of medicines that are in high demand among patients or are in short supply on the Greek market. Consequently, the applicant, having served in the General Secretariat for Health Services, had at his disposal information on the pharmaceutical needs of public and private healthcare providers, which he could use to initially guide the conduct of research on the pharmaceutical needs of patients in Greece. Furthermore, by correlating the information to which he had access during his term of office at the General Secretariat with the results of the aforementioned surveys, he could have guided pharmaceutical companies to focus on the manufacture, importing and distributing specific medicines and other pharmaceutical products on the Greek market, so that they could then be made available, inter alia, to healthcare providers in the National Health



System or the private sector. On the other hand, this would prevent any shortages in meeting the pharmaceutical needs of patients in public and private healthcare institutions.

Secondly, the bodies supervised by the General Secretariat for Health Services also include the Independent Department of Therapeutic Protocols and Patient Registers, which is responsible for developing, processing, updating diagnostic and therapeutic prescription protocols, as well as patient registers. The applicant exercised supervision over that department in his capacity as Secretary-General and also participated in a committee whose tasks included, inter alia, the further processing of existing protocols and the development of new diagnostic and therapeutic protocols and registers of patients with chronic diseases, with a view to ensuring their maximum effectiveness and contributing to the rationalization of public pharmaceutical expenditure. On the basis of the supervision exercised by the applicant in the aforementioned Department, and on the basis of its participation in a committee with a relevant remit, he had access to information on which drugs are included in treatment protocols and which are most commonly prescribed and, as a result, he could again direct the pharmaceutical companies belonging to the Association to focus their activities on those specific drugs. Furthermore, on the basis of the findings of the Association's investigations, as well as the knowledge of its representatives concerning the availability of medicinal products on the Greek market, whether in sufficient supply or subject to shortage, influence may be exercised over the formulation of therapeutic prescription protocols. Such influence could consist in the inclusion, within those protocols, of products of which companies already maintain adequate stocks or ensure abundant production, with the objective of facilitating the market entry of innovative pharmaceutical products capable of replacing those currently incorporated into the treatment protocols.

Moreover, the objectives of the Association in which the applicant wishes to work include the promotion of pharmaceutical innovation in relation to existing pharmaceutical products or new active substances and molecules, therapeutic regimens and new therapeutic approaches, forms, diagnostic methods, and prevention methods, as well as the integration of new therapies into the public health system. In addition, the Association may provide its opinion to bodies under the supervision of the Ministry on the effectiveness of various medicines or on sources of supply of pharmaceutical products in general. This would ensure the improvement of treatment protocols through the inclusion of innovative and more effective pharmaceutical products. Furthermore, it should be noted that the Association's purpose is not to promote the products of pharmaceutical companies, but to promote pharmaceutical innovation and clinical research and to highlight the added value generated



for both the National Health System and the Greek economy, which gives the Association its institutional character.

Thirdly, the association with which the applicant wishes to be employed, is a professional non-profit association and among its objectives is the protection and extension of the right of its members to participate actively in decision-making centers in a democratic and lawful manner. The Association aims, among other things, to protect, promote, and support the professional and economic interests of its members, to systematically study, promoting and publicizing issues of concern to its members in order to seek and achieve the most appropriate solution to the problems of the sector. This makes it possible for the applicant to meet with officials of the Ministry in which he served in order to defend the rights of the Association's members to participate in decision-making on matters falling within the Ministry's competence. Due to his tenure at the Ministry and his acquaintance with persons holding key positions there, he could exert influence more easily than other members of the Association.

Therefore, in view of the above, the Committee unanimously decides to grant the applicant the requested license to pursue his desired professional activity as specified in his application dated 26.09.2023 and in the relevant supplementary information provided, on condition that he refrains from a) negotiating terms/concluding contracts for the supply of medicines and other pharmaceutical preparations to bodies in the health sector supervised by the Ministry of Health, or at the level of negotiating the terms of supply of medicines by companies belonging to the Association's health care bodies, or at the level of providing advisory services to the Ministry on sources of supply for various medicines, as well as on the effectiveness of new pharmaceutical products and their suitability for inclusion in treatment protocols, and (b) through meetings with Ministry of Health officials on professional issues concerning the Association's members.

The Chairman of the Ethics Committee

Menelaos Tsouplakis