

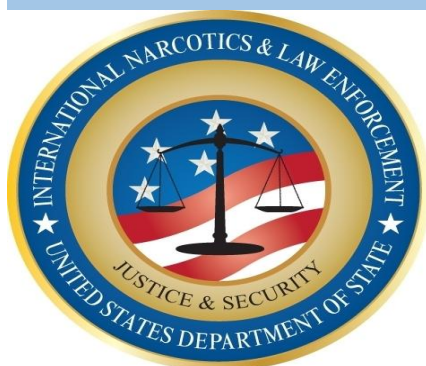


Transparency and effectiveness of public spending to address the COVID-19 pandemic in Bulgaria

Corruption risks and measures in the fight against the pandemic

Bulgarian Institute for Legal Initiatives

Sofia 2021



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SOFIA

2021

The document sets out selected highlights from the analysis *‘Transparency and Effectiveness of Public Spending to Address COVID-19 in Bulgaria. Corruption Risks and Measures in the Fight against the Pandemic’*. It contains the result of the activities implemented under project *‘Effective Fight Against Corruption. Supporting Stakeholders in Implementing Anti-Corruption Standards’*. The project is implemented by the International Foundation for Electoral Systems (IFES) and the Central and Eastern Europe Law Initiative (CEELI) Institute with partners from Bulgaria, Romania and Montenegro, with funding from the US Department of State (DoS/INL). The Bulgarian project partner is the Institute for Legal Initiatives (BILI). The findings, conclusions, views, thoughts, opinions and recommendation, expressed in the current text, belong solely to the authors and not necessarily to the project’s partners and/or funding organization(s).

The COVID-19 pandemic has presented the world with a global challenge and put countries’ healthcare and social systems to the test. The ensuing crisis has been intricately multifaceted — although primarily a health crisis, it also has pronounced economic, social and political aspects and multiple ramifications. In an environment where urgent action needs to be taken, the focus on control of public spending has not been sufficiently strong. During the first phase of the crisis, there was an acute shortage of personal protective equipment (PPE) and certain medicines and medical devices. In the recovery phase, nation states and international organisations will be investing unprecedented amounts of money – more than EUR 1.8 trillion in the EU alone – to put economies back on track. These factors have an impact on the corruption environment — they increase the risk of corruption, and in countries like Bulgaria, where systemic corruption is commonplace and widespread, the crisis further has further enhanced a range of negative phenomena in public spending.

The purpose of the analysis is to ‘lift the veil’ on how public funds (both national and EU) are spent to address COVID-19 in terms of transparency and effectiveness of management-level decision-making and implementation. In its entirety, the analysis has three main components — a legal analysis of the regulatory framework and practice, including enacted emergency legislation, an economic analysis of social and health measures and their impact, and a journalistic investigation of the disbursement of public funds and donations. In each part, the authors have sought to highlight weaknesses, so-called ‘blind spots’ in the

systems of expenditure management to address COVID-19 in Bulgaria, which are also potential risk factors for corruption. The full analysis is accompanied by a review of international anti-corruption best practice. In Bulgarian, the text of the study is available: [HERE](#).

This abridged version focuses on the legal and economic aspects of the study and draws attention to phenomena and practices that are specific to Bulgaria and have not received international coverage to date. In this sense, they may be of interest to foreign organisations and experts wishing to learn more about how, to what extent and for what purposes Bulgaria disbursed public funds to address the COVID-19 pandemic and its consequences.

From a methodological point of view, the study uses a palette of tools — legal analysis, economic analysis, comparative analysis, statistical analysis, etc. Primary information was collected from publicly available sources or obtained from the relevant institutions under the Access to Public Information Act. Anonymous in-depth interviews were also conducted.

The analysis is an invitation to a discussion of the best solutions to prevent corruption and minimize the negative factors that affected response to the COVID-19 crisis. It is intended for representatives of public institutions, decision-makers and lawmakers, businesses, civil society and the media. The study will also be useful to any active citizen who wishes to learn more about how public funds were used to address COVID-19 and what their effectiveness has been.

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ISBN 978-619-91738-2-4

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Analysis of the legal framework, legal practice and regulatory environment in the context of the COVID-19 pandemic

1. General framework

By a decision of the National Assembly (State Gazette (SG) No 22 of 13 March 2020), adopted on a proposal of the Council of Ministers and in accordance with Article 84(12) of the Constitution of the Republic of Bulgaria, in connection with the growing COVID-19 pandemic, a state of epidemiological emergency was declared in the entire territory of Bulgaria from 13 March 2020 until 13 April 2020. By the same decision, the Parliament tasked the Council of Ministers with taking the necessary measures to contain the spread of the COVID-19 pandemic and address its consequences in accordance with Article 57(3) of the Constitution, which stipulates that *'in case of declaration of war, martial law or any other state of emergency, the exercise of individual rights of citizens may be temporarily restricted by law, except for the rights provided for in Articles 28, 29, 31(1), (2) and (3), Article 32(1) and Article 37.'*

In the case of a declared state of emergency, the exercise of the individual rights of citizens may be temporarily restricted **ONLY** by law, and according to Article 84(1) of the Constitution, any such legislation must be adopted by the National Assembly, and not by the Council of Ministers. Thus, **the second part of the decision of 13.3.2020 is completely superfluous as it neither introduces a new situation, nor does it in any way modify an existing one. This part of the provision can be explained by the lack of legislative experience in the domain of an emergency situation.**

No state of emergency had ever been declared in Bulgaria until 13.3.2020 and no law has consequently been adopted to regulate public relations during a state of emergency. These are some of the reasons why the National Assembly had to convene and adopt a special law on the same day.

The Law on the Measures and Actions During the Epidemiological State of Emergency and on overcoming the consequences of the pandemic (LMADESE), adopted by a decision of the

National Assembly on 13 March 2020 (title amended in SG 44 of 2020, in force from 14 May 2020), in force from 13 March 2020, intended to respond to the changed societal relations as a result of the pandemic.

In its first provision, the LMADESE outlines the scope of the law, explicitly providing that it **regulates the measures and actions during the state of emergency** in Republic of Bulgaria and aims to overcome its consequences after the state of emergency has been lifted. In the very next provision, the law **delegates powers to the Minister of Health to introduce other temporary measures** and restrictions defined by law.

1. Amendments

One of the first amendments was introduced to the Health Act. A new Article 63a was created (new in SG 44/2020, in force from 14.05.2020), which stipulates as follows:

(1) In case of epidemic spread of communicable diseases as referred to in Art. 61(61) (3), the Minister of Health may introduce by a dedicated order anti-epidemic measures, acting on a proposal of the Health Inspector-General to apply in the entire territory of Bulgaria or in a particular area for a specified period of time.

(2) Anti-epidemic measures as referred to paragraph 1 may also be introduced by an order of the Head of the relevant regional health inspection service in consultation with the Health Inspector-General to apply within a particular district, municipality or locality for a specified period of time.

The following 9 additions and amendments to the Health Act (SG 44/2020, in force from 14.05.2020, amended and supplemented in SG 28 of 24 March 2020; SG 34 of 9 April 2020; SG 44 of 13 May 2020; SG 67 of 28 July 2020; SG 103 of 4 December 2020; SG 105 of 11 December 2020; SG 110 of 29 December 2020; and SG 21 of 12 March 2021) were also introduced, literally in the space of a few weeks, in Section V 'Surveillance of communicable diseases'. This includes the regulations on the procedure for declaring an epidemic emergency (Article 63(2)); criteria for assessing when there is a danger to the life and health of persons (Article 63(3)); the acts by which measures are imposed by the Minister

(Article 63(4)) and by the Director of the relevant health inspection service (Article 63(4)(7), the procedure for appealing against them (Article 63(10), and even the nature of the orders under paragraphs 4 and 7 (Article 63(11)).

One of the amendments is related to the determination of the type of the administrative acts to be issued, i.e. they concern the nature of the orders envisaged in Article 11 of the Health Act. This is an atypical legislative practice, and the question arises as to the reasons that necessitated a departure from routine.

In principle, the type of administrative act is a legal question, and the answer does not lie in its name, even when introduced by law, but in its content, as well the source from which the authority of the issuing body derives. Thus, the amendment of Article 63(11) of the Health Act explicitly states that ***the orders referred to in paragraphs 4 and 7 are general administrative acts**, which are issued in accordance with Article 73 of the Administrative Procedure Code, and that they are published on the website of the Ministry of Health, respectively on the website of the regional health inspection service, and are subject to ex-ante enforcement.*

It has become public knowledge that the courts have received numerous appeals against acts and actions based on orders issued by the Minister of Health in the period from 13.03.2020 to 14.05.2020. In the course of the appeals, the courts in the country have had the opportunity to rule on the nature of the Minister's order, even the Supreme Administrative Court has found occasion to occasionally discuss the rules governing the types of administrative acts, separately in the public domain respected jurists have publicly expressed their legal opinions on this issue. Two opinions were expressed.

According to one opinion, the orders are general administrative acts (GAA). The Administrative Procedure Code (APC) defines GAAs as administrative acts with a **single legal effect**, which create rights or obligations or directly affect the rights, freedoms or legitimate interests of an unspecified number of persons, as well as refusals to issue such acts. GAAs may be issued in urgent cases without a public hearing, including where there is an imperative need to protect public health.

According to the second opinion, the orders are regulatory administrative acts (RAAs). The current APC defines RAAs as a sub-legislative administrative act, which contains

administrative provisions, applies to an indefinite and unlimited number of addressees and has **multiple legal effects** and require to be subject to public consultation prior to being promulgated.

In this context, it can be reasonably assumed that in Article 11 of the Law on Public Health Act the legislature envisaged general administrative acts precisely in order to avoid the risk that, once they have become an objective fact and entered in force, they will be declared null and void by courts due to a failure to adopt provisions on their lawful issuance and promulgation, as intended for all administrative acts. In the latter case, the effect of the annulment by a final judgment would have been felt by all persons, notwithstanding that the appeal might have been initiated by a single party, and multiple claims for damages might have been brought before the courts as a consequence.

Thus, the legislature, by defining by statute the type of order the Minister would issue, even though it did so *post factum*, in fact attempted to avoid litigation and prejudge pending litigation in an entirely unpredictable manner.

Instead of this peculiar interference, the legislature could have refined the legislative provisions concerned, introduced a procedure that, on the one hand, would be consistent with the general procedure provided for the respective type of administrative act and, on the other hand, would guarantee the rights of the addressees, at the same time making the whole process predictable and transparent.

In relation to the changes made, the text of Article 63(4) of the Health Act merits special attention. On the date of the declaration of a state of emergency, the text of the Article concerned stipulated as follows: *Central and local government bodies shall create the conditions necessary for the implementation of the measures referred to in paragraph 1, and the funds for their implementation shall be provided from the State budget and municipal budgets respectively.*" Paragraph 4 has been amended in SG No 44/2020, in force from 14.5.2020 and has become the following paragraph: *'Central and local government bodies shall create the necessary conditions for the implementation of the measures referred to in paragraphs 4 and 7, and the funds for their implementation shall be provided from the State budget, respectively from municipal budgets.'*

All restrictions imposed during the period of the epidemiological emergency undoubtedly constitute measures within the meaning of Article 63(4) and (7) of the Health Act. There is also no doubt that as at 13 March 2020 neither the central government nor local authorities had funds earmarked for their implementation.

It should be taken into account that the implementation of the measures is a two-way process — although the measures are imposed by the competent authority, which should create the conditions for their implementation, they are implemented by citizens and legal entities. Consequently, the cost of all measures implemented by citizens and legal persons had to be covered by the budgets of the respective authorities that imposed them.

Instead, the budgets of central and local government bodies were used only to pay for the costs incurred by the respective administrative bodies in putting the respective conditions in place. All measures that citizens and legal entities were asked to implement were entirely at their own expense.

CONCLUSIONS:

Although subsidies, grant assistance, etc., were paid from the State budget, the measures imposed by the state and municipal authorities were not implemented.

3. Derogations

3.1. Derogations under the Public Procurement Act

The Law on the Measures and Actions During the Epidemiological State of Emergency (LMADESE) stipulates that the provisions of the Public Procurement Act **do not apply to** certain types of supplies and services. Thus, Article 13(1) (suppl. In SG No 44/2020, in force from 14.5.2020; amend. in SG No 64/2020, in force as from 18.7.2020) provides as follows: *‘During the state of emergency, respectively the state of epidemic emergency, and three months after its abolition, the provisions of the Public Procurement Act shall not apply to:*

1. the purchase by the contracting authorities of hygiene materials, disinfectants, medical devices and personal protective equipment necessary to ensure the implementation of anti-epidemic measures;

2. (suppl. in SG No 64/1920, in force from 18.7.2020) the purchase of medical devices, provision of sampling services and the reporting of results, purchase of medical and laboratory equipment necessary for diagnosis and treatment of infected patients, the associated consumables, as well as activities related to their use and warranty service;

3. the commissioning of activities for disposal of pesticides and hospital waste in accordance with Regulation No 1 laying down the requirements for waste collection and waste disposal within the perimeter of hospitals and other medical establishments (promulgated in SG No 13/2015; amended in SG No 102/2018).

(2) (New in SG No 44/2020, in force from 14.0.2020; suppl. in SG No 64/2020, in force from 18.7.2020) The provisions of the Public Procurement Act shall not apply for a period of two months after the lockdown is lifted, respectively for three months after the state of epidemiological emergency is lifted, including to the transport services in the cases referred to in paragraph 1(1) and (2).

(3) (ex-paragraph 2, amend. in SG No 44/2020, in force from 14.5.2020) At the request of a contractor under a public procurement contract, the period for performance may be renegotiated, but the extension may not exceed two months after the state of emergency is lifted.

Art. 14. When medical devices necessary for the implementation of anti-epidemic measures, as well as for the treatment and diagnosis of infected patients, are purchased with public funds through the budget of the Ministry of Health, the budget of the medical establishments referred to in Article 5 of the Medical Establishments Act and the budget the State-owned or municipal hospitals referred to in Articles 9 and 10 of the Medical Establishments Act, the requirements of Chapter Three, Section II of the Regulation laying down the conditions and procedure for drawing up a list of medical devices shall not apply. (published in SG No 104/2011; amended in SG Nos 74/2013; 76/2014; 35/2015; 104/2018; and 27 and 83 of 2019), except for Article 34(1)(2) of that Regulation.'

The cited amendments do not comply with European Union law. It is common knowledge that the European Commission published Guidance on using the public procurement

framework in the emergency situation related to the COVID-19 crisis (2020/C 108 I/01).¹ While it should be noted that these Guidelines reflect the Commission's understanding of the Treaties, the Public Procurement Directives and the case law of the Court of Justice of the European Union, it should be emphasized that in all cases the binding interpretation of Union law is the prerogative of the Court of Justice of the European Union and that the Guidelines do not in fact change applicable regulatory framework. They were, however, particularly practical, motivated by the Commission's desire to further adapt its assistance in the emergency situation. Thus, through the Guidelines, the Commission clarified the options and flexibilities available under the European public procurement rules with regard to the provision of supplies, services and works needed to overcome the crisis.

The Guidelines indicate that Contracting Authorities have a choice between several options:

- First, in urgent circumstances, they have the possibility to significantly shorten deadlines in order to speed up open or restricted procedures.
- If these flexibilities prove insufficient, a negotiated procedure without publishing a notice may be used. Ultimately, even direct award to a pre-selected economic operator may be authorised, provided that there is only one operator capable of meeting the technical requirements and time limit imposed by the extreme urgency of the circumstances in respect of the necessary supplies.
- In addition, procurers should also consider alternative solutions in cooperation with market operators.

The Guidelines on public procurement in extremely urgent circumstances give specific guidance on the possibilities provided in EU law for contracting authorities to procure the necessary supplies within days, even hours, if necessary. It is acknowledged that **the EU Directives do not contain procedural limitations specifically for situations such as the current COVID-19 crisis, which constitutes an extremely urgent and unforeseen circumstance.**

¹ Communication from the Commission Guidelines from the European Commission on the application of public procurement rules in the emergency situation created by the COVID-19 crisis 2020/C 108 I/01 <https://eur-lex.europa.eu/legal-content/BG/TXT/?uri=CELEX%3A52020XC0401%2805%29>

For example, the negotiated procedure without publication of a contract notice enables contracting authorities to obtain supplies and services as quickly as possible. Under the procedure provided for in Article 32 of Directive 2014/24/EU, contracting entities may negotiate directly with potential contractors without a requirement to publish notice, and without a time limit, minimum number of candidates or other procedural requirements. However, the specific procedural steps are not regulated at EU level. In national law, i.e. in the Public Procurement Law, the procedure is governed by Article 18(1)(10), meaning that the Directive has been fully transposed. In practice, this means that contracting authorities could react as quickly as technically and physically possible, and the procedure could be de facto one of direct award, depending only on the physical or technical constraints related to the actual availability and speed of delivery. **However, this possibility envisaged in the Public Procurement Act, which transposes the relevant provisions of EU law, was ignored by the lawmaker, which chose to suspend the Public Procurement Act (within the meaning of Article 13(1) and (2) of the LMADESE).**

In the Guidelines, the European Commission maintains that the **European procurement framework provides ways and means to deal with severe emergencies such as the COVID-19 pandemic**. It empowers and encourages procurers to pursue a multi-phased strategy. First, for their immediate and projected short-term needs, they should make full use of the flexibilities provided in the regulations. As an additional tool, they are encouraged to use joint procurements and take full advantage of the Commission's joint procurement initiatives. Procedures with shorter deadlines serve their needs in the medium term as they are in principle a more reliable means of achieving better value for money and guarantee companies greater access to business opportunities and a wider range of available stocks.

The use of an "accelerated" open or restricted procedure respects the principles of equality and transparency and ensures competition even in emergencies. Where circumstances make it impossible to apply the time limits applicable in a normal situation, contracting authorities may shorten the time limits in the open or restricted procurement procedure in accordance with the Directive and the PPA.

What possibilities exist for shortening deadlines in an emergency? Under EU law, the use of an "accelerated" open or restricted procedure respects the principles of equal treatment and transparency and ensures competition even in an emergency. In circumstances that make it impossible to apply the time limits applicable in a normal situation, contracting authorities may shorten the time limits in the open or restricted procurement procedure in accordance with the Directive.

The Directive has been transposed into national law and therefore the shortening of the time limits is properly grounded in the relevant provisions of the PPA. Thus, the normal minimum time limits set on the basis of the Law can be shortened in accordance with the following provisions of the Directive and the PPA:

Procedure	Minimum customary time limits and legal basis	Minimum shortened time limits and legal basis
Open procedure	35 days	15 days
	- Article 27 of Directive 2014/24/EU/	- Article 27 of Directive 2014/24/EU/
	- Article 75 of the Public Procurement Act	- Article 75 paragraph 4 of the Public Procurement Act
Restricted procedure (step 1: application for participation)	30 days	15 days
	- Article 28 of Directive 2014/24/EU/	- Article 28(6)(a) of Directive 2014/24/EU
	- Article 75 of the Public Procurement Act	- Article 75 par. 7 item 1 of the Public Procurement Act
Restricted procedure (step 2: submission of a tender)	30 days	10 days
	- Article 28 of Directive 2014/24/EU/	- Article 28(6)(b) of Directive 2014/24/EU
	- Article 75 of the Public Procurement Act	- Article 75(7)(2) of the Public Procurement Act

Table 1 Timing of procurement procedures

In extremely urgent circumstances — negotiated procedure without prior notice.

With the 'negotiated procedure without prior notice', Union law provides an additional tool to allow for faster procurement to meet the needs created by the COVID-19 pandemic. The possibility provided for by Article 32(2)(c) of the Directive is explicitly justified in the EC Guidelines.

This possibility is transposed in Art. 74(1)(4) of the Public Procurement Act, according to which.

All the conditions must be cumulatively satisfied, and their interpretation must be restrictive (to that effect see Case C-275/08 *Commission v Germany* and Case C-352/12 *Consiglio Nazionale degli Ingegneri*). "The 'negotiated procedure without prior notice' enables contracting authorities to negotiate directly with potential contractors; the direct award of a contract to a pre-selected economic operator is only allowed in exceptional circumstances: if only one company is able to meet the technical requirements and time constraints imposed by the extreme urgency of the circumstances.

It is for each contracting authority to decide whether the conditions for using such a 'negotiated procedure without prior notice' are met. It is necessary in each specific case to justify its choice of this procedure in a report which contains an assessment of whether all the criteria are cumulatively satisfied.

CONCLUSIONS:

EU public procurement rules provide contracting authorities with the necessary flexibility to purchase goods and services directly related to the COVID-19 crisis, and do so as quickly as possible. The relevant provisions have been transposed into and form part of Bulgaria's national law. However, the lawmaker essentially suspended the use of all procurement procedures by enacting by law, completely unjustifiably, that for the duration of the state of emergency, respectively the state of epidemic emergency, and for an additional period of three months after it has been lifted, public procurement rules should not apply to the types of supplies and services defined in Article 13 of the COVID Act. In this context, it can be considered that there is a derogation from the obligation to apply EU law. As regards public

procurement, this constitutes a lack of guarantees for compliance with the fundamental principles of the Union of transparency, non-discrimination, equal treatment and free competition, which are also expressly proclaimed in Article 2(1) of the implementing national law.

At the same time, Member States, including Bulgaria, have an obligation to apply EU law within their jurisdiction. In accordance with Article 17(1) of the Treaty on European Union, the European Commission has the duty to monitor the application of EU law by Member States. This role as a 'guardian of the Treaties' is essential to ensure the overall effectiveness and accountability of the EU. The Commission's supervisory activities focus on managing the risk of potential breaches of EU law by Member States, which could lead to a formal infringement procedure under Article 258 of the Treaty on the Functioning of the European Union (TFEU).

CONCLUSIONS:

In view of the fact that, along with the non-application of the provisions of the Public Procurement Act, the contracting authorities do not apply the basic principles applicable to public spending, namely publicity, transparency, non-discrimination and free competition stipulated in Article 13 of the Public Procurement Act, contracts were concluded upon terms that were and remain unclear to the public, which creates conditions for corruption, removes the possibilities for public scrutiny, and may lead to the establishment of a violation of the Public Procurement Act. Once again, the fact that Article 13 of the LMADESE entered into force on 15 March 2020 and that the Guidelines were published on 1 April 2020 in the Official Journal of the EU is of no relevance, as the Guidelines, as already mentioned, do not change or modify EU law in any way, but only assist the contracting authorities of the Member States in more easily adapting to the situation created by the crisis.

An additional question arises as to whether, after the entry into force of the provision of Article 13 of the LMADESE, contracting authorities should not have applied the

procurement procedures or should have applied the Directive directly, insofar as EU law has precedence over the national laws of the Member States.

The Directive is part of secondary EU legislation. Once adopted at EU level, it must be implemented—or transposed—by the EU Member States, including Bulgaria, and becomes part of their national law.

In accordance with Article 288 of the Treaty on the Functioning of the European Union, Bulgaria has an obligation to achieve the same result as that envisaged in the Directive. The Directive has been transposed and is therefore an applicable statutory instrument.

And although, in principle, a directive only takes effect when transposed, the CJEU has held that a directive which is not transposed may produce certain effects directly where:

- transposition into national law has not been undertaken or has been undertaken incorrectly;
- the provisions of the Directive are unconditional and sufficiently clear and precise.

In the case at hand, as Article 13 of the LMADESE provides that the PPA does not apply for the period specified therein, it may be argued that for Directive 2014/24/EU has been effectively suspended for the period in question, which is equivalent to Bulgaria failing to transpose the Directive. At the same time, it is clear from the comparative analysis in the table above that the provisions of the Directive relevant to public procurement in urgent and extremely urgent circumstances are unconditional and sufficiently clear and precise, meaning that the second hypothesis applies.

CONCLUSIONS:

We therefore believe that, despite the existence of Article 13 of the LMADESE, which suspends the application of the provisions of the PPA for the specific period of time for the goods and services within the scope of the Article, the contracting authorities should have directly applied the provisions of Directive 2014/24/EU/ by procuring all supplies and services through a public process that complies with with the procedures provided for urgent and extremely urgent circumstances to deal with

severe emergency situations, such as the COVID-19 pandemic.

3.2 Prohibition on export of medicinal products²³

The provision of Art. 16(1) (amend. and supplemented in SG No 44/2020), *During the state of emergency and for a period of two months after restrictions are lifted, the Minister of Health may, by an order, prohibit the export of medicinal products within the meaning of the Law on Medicinal Products in Human Medicine from the territory of the Republic of Bulgaria in order to ensure sufficient quantities of medicinal products to meet the health needs of the population of the Republic of Bulgaria.* Such a provision is unthinkable as the right of free movement of goods originating in the Member States and of goods from third countries in free circulation in the Member States is one of the fundamental principles of the EU enshrined in the Treaty (Article 28 TFEU).

As at 13.3.2020, it can be argued that the ban was justified on account of the unexpected effect of the epidemic and in view of the need to ensure the provision of sufficient quantities of medicinal products to meet the needs of Bulgarians.

The state of emergency was lifted on 15.5.2020. Therefore, by virtue of the cited provision, the export ban expired after two months, i.e. on 15.7.2020.

However, more than a year after the lifting of the state of emergency and after the termination of the legal restriction, the ban on the export of medicinal products is still in effect on the same grounds that the Minister of Health used to impose it – greater demand compared to the previous period and indications of shortages of medicinal products.

This situation can be considered as an obstacle to the operation of the basic principle laid down in the TFEU for free movement of goods, which is why it is not strange that the Commission has sent a reminder to the Council of Ministers to take action to stop it.⁴

² MH. Export of medicinal products banned 30.04.2020

<https://www.mh.government.bg/bg/novini/aktualno/zabranyava-se-iznost-na-lekarstveni-produkti/>

³ MH. Minister of Health bans export of medicines applicable to treatment of COVID-19 18.12.2020

<https://www.mh.government.bg/bg/novini/aktualno/ministr-na-zdraveopazvaneto-zabranyava-iznosa-na-/>

CONCLUSIONS:

The fact that a reminder from the Commission is necessary is a sign that during the one-year period since the declaration of an emergency situation, the executive:

1. has not taken adequate measures to supply the population with the medicines they need and guarantee their right to proper healthcare;
2. has failed to implement adequate policies to ensure that the principle of EU solidarity operates as intended.

3.3 Government subsidies and grants for certain sectors

Part of the numerous changes introduced in the LMADESE concerned State grants to certain economic sectors.

According to Article 26(1) (Amended, SG No. 60 of 2020) *‘Two years after the emergency situation has been lifted, the Ministry of Tourism shall provide tour operators using air carriers with a valid operating licence for the execution of charter flights to the Republic of Bulgaria for tourism purposes with a state subsidy of EUR 35 per seat of the maximum passenger capacity of the aircraft for each flight. The subsidy shall be granted for each seat occupied by a person using tourist services in the Republic of Bulgaria only for flights with a capacity of at least 100 seats.*

According to paragraph 3, *the procedure for granting the subsidy shall be determined by an act adopted by the Minister of Tourism.*

According to Article 26a (new in SG No 105/2020, in force from 7.12.2020 to 31.12.2021)
(1) *The State shall provide to persons providing tour operator and travel agent services grants in the amount of 4 per cent of their turnover, excluding VAT in 2019, which shall be used as a priority to compensate for losses resulting from customers who have refused vouchers, as well as from amounts withheld by service providers.*

⁴ Briefing of the National Operational Headquarters 11.02.2021 <https://www.youtube.com/watch?v=u7MGm5HocaQ> from 9:05 min.

The second paragraph of the provision stipulates that the relevant procedure is to be determined by a dedicated Regulation issued by the Minister of Tourism. According to the provision in question the funds referred to in paragraph (1) are to be granted to the persons referred to in paragraph 2 in accordance with a procedure to be determined by an ordinance of the Minister of Tourism and in compliance with applicable State aid rules.

The following Article 26b (new in SG No 105/2020, in force as of 11.12.2020) provides that *(1) Micro, small and medium-sized enterprises which, pursuant to an order of the Minister of Health in the event of an epidemic emergency, have suspended their activities after 1 November 2020 shall be awarded grants equal to a percentage of their turnover, excluding VAT, for the same period in the previous year, for a period until the restriction is lifted. For micro-, small and medium-sized enterprises registered after 1 January 2020, grants shall be at the rate of a percentage of their turnover, excluding VAT, for the previous month of the month in which the activity ceased.*

The difference in this case is that *the funds referred to in paragraph 1 are to be granted to micro-, small and medium-sized enterprises that meet the criteria specified in accordance with the procedure established by the Council of Ministers, acting on a proposal of the Minister of Economy.*

The following is not clear in this situation:

- on the basis of what criteria, the different amounts of state subsidies and grants for the different sectors are determined — is it possible that this is the result of influence and lobbying (reminder that there is no national regulation governing lobbying), which is a prerequisite for corruption;
- what is the reason for envisaging functionally different bodies for the purpose of determining the procedure for the grant of state subsidies — the impression remains that spheres of influence have been divided in the Council of Ministers, which is yet another prerequisite for corruption;
- what is the reason for the lack of regulations for control of the funds for some sectors, while for other sectors there are detailed regulations for verification, interest, execution, etc. In this sense, it is completely unclear

what is the legal presumption that the recipients of grants under Article 26(b) are more unreliable than those under Article 26 and Article 26(a), by virtue of paragraph 5 of Article 26(b), which provides that *"funds wrongfully received, unduly paid and overpaid shall be refunded together with interest under the Law on Interest on Taxes, Fees and Other Similar Government Claims from the date of receipt of the funds until the date of their refund. Claims for reimbursement shall be public State claims. Acts under Article 166 of the Tax and Social Security Procedure Code shall be issued by revenue authorities authorised by the Executive Director of the National Revenue Agency. An appeal against the acts shall not suspend their execution.* Since the addressees of state subsidies and grants are the subjects of Articles 26, 26a and 26b, the same treatment should be provided for all of them in the event of wrongful receipt of funds and the consequences thereof, otherwise there are preconditions for corrupt acts.

There is an attempt to additionally support the tourism sector with an aid of 210 BGN, granted under Article 27 (new in SG No 55/2020, in force from 1.7.2020) of the LMADESE to explicitly mentioned in paragraph 1, according to which.

Doctors, medical and non-medical specialists, post-graduate students and other persons carrying out auxiliary activities in hospital care establishments, employees of regional health inspectorates, emergency care centres and the National Centre for Infectious and Parasitic Diseases, employees of regional health insurance funds seconded to regional health inspectorates, employees of the system of the Ministry of Labour and Social Policy and of the system of the Ministry of the Interior and employees of the National Toll Administration.

Although the beneficiaries are explicitly mentioned in paragraph 1, according to paragraph 4 *'the Minister of Health, the Minister of Labour and Social Policy, the Minister of the Interior and the Minister of Regional Development and Public Works or officials authorised by them shall determine in writing the circle of persons entitled under paragraph 1'.* This provides, on the one hand, for an exhaustive listing of the persons and institutions to be assisted and, on the other hand, for the possibility of further specifying

the same subjects. Here, the legislator probably intended that the relevant ministers would draw up lists of eligible persons that fall within the scope of paragraph 1.

The wording of the relevant provisions warrants the conclusion that no prior analysis and assessment of the number of persons referred to in paragraph 1 was conducted, which raises the question of how the amount was determined. On a separate note, the lack of regulated criteria for the determination of persons to ensure that they are not subjective may be questioned. This indicates that the provision itself is not sufficiently clear and unambiguous, which is a precondition for abuse. It is probably only the low level of interest in this type of aid that accounts for the lack of bad practices and conflict points in its implementation.

CONCLUSION: The legislator has attempted to compensate for the damage suffered by some entities as a result of the restrictions imposed by law on their activities, but there is no explanation:

- for the reason some groups of sectors and entities are assisted through measures under the law, while other groups are assisted through measures defined by the executive;
- for what reason entire sectors are excluded from any support at all (e.g. self-employed, etc.);
- for the reason one group of entities is supported by government subsidies or government grants and others by interest-free loans;
- what is the basis for the relevant calculations and the amounts of support determined.

3.4. Special rules for conducting elections in an epidemic

The LMADESE lays down some special rules for the organisation of the elections as the term of office of both the current National Assembly and the President will expire in 2021. Along with the special provisions relating to the COVID-19 pandemic, Article 28(2) provides that the *Central Election Commission, on the basis of the anti-epidemic measures referred to in paragraph 1, shall determine by a dedicated decision the organisation of the*

elections and the arrangements for casting votes, including by voters placed in mandatory quarantine or compulsory isolation under the Health Act.

There is a collision between the provision thus formulated and the texts of the Electoral Code (EC) as regards the body that determines and organises the elections.

Thus, according to Article 18 of the Electoral Code, *'Elections shall be arranged and organised by the electoral commissions, the bodies of the executive power and other institutions in accordance with the powers vested in them under this Code'*. As regards the organization of elections outside Bulgaria, Article 20 of the EC states that *'The Minister of Foreign Affairs and the heads of the diplomatic and consular missions of the Republic of Bulgaria shall immediately publish on the website of the Ministry of Foreign Affairs and of the diplomatic and consular missions of the Republic of Bulgaria the rules and procedure for setting up electoral commissions outside Bulgaria, including the rules and conditions upon which Bulgarian citizens are able to vote abroad.'*

It could be argued that the lawmaker envisaged that according to Article 28(2) of the LMADESE the Central Electoral Commission (CEC) determines the specific rules by which it adapts anti-epidemic measures to the organisation of the elections and voting arrangements. and the Law was the appropriate instrument to vest it with the power to issue instructions, clarifications, etc.

CONCLUSION: The lack of precision in adopted legislation suggested problems that manifested themselves in practice during the parliamentary elections, among them the de-escalation of the bodies designated in the EC and were entrusted with the organization of the elections, which prevented them from performing their duties in a timely manner; confusion and chaos on the ground which, along with the deliberate fear-mongering by the government and publicly disseminated divergent opinions by representatives of the bodies and institutions involved in the conduct of the elections, gave rise to a widespread belief that the government in office was using the pandemic to achieve the political goal of remaining in power.

4. E-government and justice in the pandemic

The LMADESE made a genuine attempt to regulate remote proceedings, introduce an electronic procedure for the discovery phase, and ensure the direct and virtual participation of the parties in judicial proceedings as defined in the law. This is successfully aligned with the introduction of the so-called e-government and e-justice. It can be argued that the COVID-19 pandemic accelerated the implementation of both tools. At the same time, the challenges created by the pandemic brought to the surface the deep problems of e-justice and the difficulties associated with the widespread implementation of the Unified Court Information System (UCIS).

BAD PRACTICE: It was established that not all systems were ready for the implementation of the possibilities introduced by the LMADESE. In some of the largest courts in Bulgaria, the courts do not accept electronic documents signed with a qualified electronic signature. The courts were explicitly instructed that, insofar as the court did not have an information system for accepting electronic documents signed with an electronic signature and, consequently, with the possibility of authentication, the relevant chambers would not consider any electronic documents sent by e-mail until they had been signed on paper.

This bad practice is noteworthy because the law on electronic document and electronic certification services has settled this issue by explicitly stating that a *qualified electronic signature is an electronic signature within the meaning of Article 3(12) of Regulation (EU) No 910/2014*, and the Regulation has direct and immediate effect in all EU Member States. This is so because Article 288 TFEU (formerly Article 249 TEU) expressly provides that regulations '*shall be binding in their entirety and directly applicable in all Member States*'. The CJEU has confirmed that they are in principle directly applicable, stating that: '*By their very nature and place in the system of sources of EU law, regulations operate to confer rights on individuals which national courts are bound to protect*'.

The fact that there is no provision in the Code of Civil Procedure according to which the court is the addressee of electronic statements until 30.6.2021 does not mean that the court could not accept such statements. This is so because Article 8(2) of the e-Government

Act obliges all administrative bodies and entities providing public services to accept electronic statements and provide electronic services. Courts undoubtedly provide a public service. Furthermore, the receipt of electronic documents and statements represents an act of administration, meaning that courts are the addressees of such a service within the meaning of Article 5(2) of the Electronic Document and Electronic Certification Procedures Act (EDEGA).

Article 360b of the Judiciary Act provides for electronic services to be provided through the Unified e-Justice Portal (UeJP). It was envisaged that the UeJP will be fully operational by 30.6.2021. This does not mean that if by that date the UeJP does not have the functionality to enable parties to exercise their rights electronically, they cannot do so. Pursuant to Article 27 of Regulation No 6 of the Supreme Judicial Council, it is permissible for documents and electronic statements and procedural rights to be exercised by means of an electronic address or by the production of electronic documents on optical or other technical media. At the same time, according to Article 360e(3)(3), last sentence, of the Judiciary Act, the court is obliged to publish an electronic address for correspondence. Thus, and on the strength of the argument set out in Article 5 of the EDEGA, the publication of an electronic address constitutes an unambiguous circumstance on the basis of which the court may be deemed to have agreed to receive statements and documents in electronic form.

Regarding the verification of the electronic document, even if the court does not have appropriate means of authentication, it cannot refuse the electronic document or the electronic statement, because there is an on-line validation system developed by the State Agency for Electronic Government, through which the court can retrieve information about the signatory of a document and the date on which the document was signed, with the system further allowing the integrity of the data, i.e. of the document, to be verified. This process provides certainty that the document has not been tampered with or otherwise compromised and that its form has not been altered.

CONCLUSION: The receipt of electronic documents and statements constitutes an administrative act of judicial administration, which should, in compliance with the requirements currently in force, verify the documents concerned and enable their transmission to the relevant judges, court clerks and the parties.

The court, in turn, cannot refuse to accept either electronic documents or electronic statements, nor can it refuse the exercise of procedural rights by electronic means and practices to the contrary are contrary to the current legal framework.

5. Recommendations

In view of the unexpected nature of the circumstances justifying the need to declare an emergency epidemiological situation, and taking into account that during the period of its operation, fundamental human rights may be restricted, we consider that the following would be appropriate to ensure that the rights of all citizens are respected and that no violations take place as preconditions for abuse of power:

1. Adoption of a stand-alone law on the emergency epidemiological situation so as to fill an existing void in legislation;
2. Introduction of e-government and e-justice as soon as possible and in full;
3. Introduction of the possibility for electronic voting in elections and guaranteeing this right during a state of emergency or epidemic situation;
4. Provision of training to contracting authorities on public procurement procedures to enable them to act in urgent circumstances.

Economic analysis of the means to tackle the pandemic (health and socio-economic aspects)

1. Supporting business

The economic measures for businesses under the already declared epidemiological situation were among the first to be discussed after the partial lockdown and the ensuing restrictions imposed in Bulgaria. Here, as in the other parts of the analysis, we will not examine each individual measures — deferring tax payments, reducing municipal rents, etc. We will focus on the possibilities for obtaining grants, interest-free loans, special measures for tourism and restaurants. The main sources of data are the websites of the Ministry of Economy, operational programmes and the Bulgarian Development Bank, as well as information collected under the Access to Public Information Act (APIA). The data on individual measures—for businesses and citizens alike — covers the period from the declaration of the epidemiological emergency until the beginning of March 2021.

The main problem with the support measures, as well as the measures to safeguard employment, is the fact that the government allowed support to companies that would then make profits, and distribute dividends and bonuses to their senior management. These problems have been highlighted by one of the trade unions⁵ and one of the employers' organisations⁶. In such cases, in fact, it appears that it was the taxpayers who provided profits to private entities, instead of using public funds to support citizens, the health system and the self-insured.

1.1. Grant payments

Although at the very beginning of the crisis various options to support business were discussed, these were not immediately implemented in a timely manner. The government

⁵ CTU "Podkrepa" Statement for the NCTS, 26 March 2020 <http://podkrepa.org/statement/%d1%81%d1%82%d0%b0%d0%bd%d0%be%d0%b2%d0%b8%d1%89%d0%b5-%d0%bd%d0%b0-%d0%ba%d1%82-%d0%bf%d0%be%d0%b4%d0%ba%d1%80%d0%b5%d0%bf%d0%b0-%d1%82%d0%bd%d0%be%d1%81%d0%bd%d0%be-%d0%bf%d1%80/>

⁶ Vassil VeleV, Chairman of the Board of AICB, in an interview with Radio Focus <http://www.focus-news.net/opinion/2021/04/17/54997/vasil-velev-aikb-nashata-po-golyama-trevoga-e-da-ne-se-razklati-makroikonomicheskata-i-finansovata-stabilnost-na-darzhavata.html>

representatives are known to have insisted that the private companies should use the accumulated 'fat deposits'⁷, the owners should sell their expensive cars⁸, etc. The prime minister repeatedly justified the delay of the measures with low taxes, uncollected or evaded social security contributions in the country. This, of course, has a rationale, but it only applies to large companies, which could have survived financially with reduced or even completely frozen production activity. It can be assumed that among the companies "with fat" are also those that operate informally, evading taxes and social security contributions. However, all the others do not have significant reserves, which is why timely support for them was vital.

1.1.1. Measure "3-10" - under this measure, between 3 BGN and 10 000 BGN were granted to micro- and small enterprises without the need to fulfil complex requirements. The problem here was that the budget allocated to the measure was very small and could only support a small share of the micro- and small enterprises in Bulgaria. The support measure was financed under Operational Programme Innovation and Competitiveness 2014-2020, BG16RFOP002-2.073 'Support for micro- and small enterprises to overcome the economic consequences of the COVID-19 pandemic'⁹. The grants received were available for finance any activities of the company, except for those completed before February 2020. The total amount of funds under the procedure is **BGN 173 million**.

Companies with at least a 20 % drop in turnover in the month preceding the month in which the application for support was submitted compared to the arithmetic average turnover in 2019 were eligible to apply. The comparison with the turnover of the whole of 2019 is problematic for companies with seasonal activity. After all, the start of the programme was delayed considerably, so this problem rather no longer existed at the time of application. However, two other problems remained:

⁷ Extraordinary briefing by Prime Minister Boyko Borissov on 24 March 2020 <https://bnr.bg/post/101246095/borisov-mnogo-po-razviti-darjavi-se-lutaha-nashite-merki-sa-nai-efikasni>

⁸ "Borissov to business: sell your cars, pay salaries" <https://www.clubz.bg/95810-borisov-kym-biznesa-prodajte-si-kolite-platete-zaplati>

⁹ OPIC <https://opic.eu/procedure/bg16rfop002-2073-subprocedure-on-micro-and-small-predpriyatiya-za-preodolyavane-na-ikonomicheskite-posledstviya-ot-pandemiyata-covid-19>

- similar to the 60/40 measure at the beginning, here the company is required to have no tax and social security liabilities. The proposal to allow applications from companies that have deferred payments was not accepted;
- A requirement was applied that the company should have registered at least 30 000 BGN turnover in 2019. The adoption of this requirement was a hurdle for some micro-businesses.¹⁰

The biggest issue was the limited resources earmarked by the government. With 414 000 micro- and small companies¹¹ operating in Bulgaria, the funds could only reach 57 000 to 58 000 companies, provided that each received a grant of BGN 3 000. That is why the speed of the documentation was actually decisive for the application, which in turn could be achieved if the administrative capacity of the company was sufficient. The procedure was launched on 14 May 2020 with a delay and the website almost immediately went down due to the high number of users that rushed to it at the same time. On this single day, almost 13 thousand applications for more than BGN 106 million in support were received, which is why the Ministry of Economy immediately started looking for a way to increase the budget¹². The rapid depletion of the resource was, naturally, easily predictable. An additional BGN 52 million under the OPIC was secured, and the correction of irregular documents by companies was facilitated.¹³

By March 2021, contracts have been signed with 23 555 companies for a total value of BGN 191.4 million. The names of the companies are available in the OPIC module of the MMIS¹⁴, but the search form of the website and the company number (EIK) should be used.

¹⁰ Information on the call for proposals "Support to micro and small enterprises to address the economic impact of pandemic COVID-19"

<https://coronavirus.eu/bg/286?fbclid=IwAR3BoK3hlk4Wko0H6RohLzjMr0dch6UmeneIYmORBgOag2zzhzmzQZQNcLo>

¹¹ The measure covers an enterprise with up to 50 employees. NSI, Number of non-financial enterprises by group according to the number of persons employed and economic activities as of 2019.

<https://www.nsi.bg/bg/content/8225/%D0%B1%D1%80%D0%BE%D0%B9-%D0%BD%D0%B0-%D0%BF%D1%80%D0%B5%D0%B4%D0%BF%D1%80%D0%B8%D1%8F%D1%82%D0%B8%D1%8F%D1%82%D0%B0>

¹² The Ministry of Economy plans to provide additional funds under the procedure "Support to micro and small enterprises to overcome the economic consequences of the pandemic COVID-19"

<https://www.eufunds.bg/bg/opic/node/4571>

¹³ OPIC Communication <https://opic.bg/news/na-vnimanieto-na-kandidatite-po-protsedura-bg16rfop002-2073-podkrepa-na-mikro-i-malki-predpriyatiya-za-preodolyavane-na-ikonomiceskite-posledstviya-ot-pandemiyata-covid-19>

¹⁴ <http://2020.eufunds.bg/bg/5/0/Project/Search?ProjectRegNum=OBgiKUrivA%2Bh%2BoUTgnblhqYXzIzYzQSK&ShowRes=True&IsProgrammeSelected=False&IsRegionSelected=False>

Data cannot be exported in a processable format. On the website of the OPIC, the lists are published in a non-readable and non-processable pdf. version, which also does not allow processing and analysis of the results. At the same time, according to international standards, open data is an anti-corruption tool. The lack of possibility to carry out analyses based on data in a processable format is a corruption factor.

1.1.2. Measure 30-150 — the scheme is similar to the support programme for micro- and small enterprises, but is instead intended for medium-sized enterprises¹⁵. Support in the amount of BGN 30 000 and BGN 150 000 was available under the scheme. The funds were provided from the budget of the OPIC, BG16RFOP002-2.077 ‘Support for medium-sized enterprises to overcome the economic consequences of the pandemic COVID-19’¹⁶. The call for proposals was launched at the beginning of August and ran until 24 August 2020. **The total amount of funds was BGN 200 million, with BGN 30 million in national co-financing.**

The main requirement was that applicants were medium-sized enterprises. There is a further requirement that turnover in 2019 is at least BGN 1 million and that they have at least two completed financial years (2018 and 2019). The budget of the programme is allocated by economic sector, with most funds allocated to transport. In contrast to micro and small enterprises, the eligible costs are described here: for raw materials, consumables, and personnel costs. Contracts have already been signed with 1 548 companies for a total of BGN 212 816 104.04. Here, too, there has been a significant delay in payments, although the Minister for the Economy stresses that he is aware that *“fast financing is important for Bulgarian companies”*¹⁷.

Again, this data cannot be downloaded in a processable version from the MMIS website, which generates an error response when this is attempted. However, the information on support for medium-sized enterprises can be downloaded. This allowed us to quickly review the companies that have received grants under the operational programme:

¹⁵ Enterprises are divided into micro, small, medium and large according to the number of employees, book value of assets and net sales revenue. The categorisation is contained in Article 19 of the Accounting Act.

¹⁶ <https://opik.en/procedure/bg16rfop002-2077-support-for-middle-predpriyatiya-for-preodolyavane-na-ikonomicheskite-posledstviya-ot-pandemiyata-covid-19>

¹⁷ Disbursement of OPIC funds to medium-sized enterprises to address the economic impact of the pandemic has started <https://opik.bg/public/news/zapochna-izplashchaneto-na-sredstva-po-opik-km-sredni-predpriyatiya-za-preodolyavane-na-ikonomicheskite-posledstviya-ot-pandemiyata>

(a) Transport companies - as already mentioned, this is the sector that was explicitly targeted by most support measures. It is worth noting that transport companies were also able to receive an additional BGN 290 per employee in addition to the support under the 60/40 measure, effectively altering the support ratio to 80/20.

b) Real estate companies - their expenses are mainly for fees and office rent. One of the largest agencies in Bulgaria — Yavlena, which received BGN 148 000, is on the list. One of the main criteria for access to the funds was that the company had registered a 20 % drop in turnover for **one** of the calendar months in the period between 1 February 2020 and the month preceding that of the application, compared to the turnover for the same month in 2019.

It could be argued that the criterion for determining which companies are eligible for support is inadequate. The presence of a downturn in one month does not mean that the company does not have the ability to cope. Especially with regard to real estate purchase and sale companies, there was a decline in the first and second quarters, after which there was a recovery.

c) Courier companies - these are the companies that not only did not lose, but also gained from the crisis, as large stores were closed, and a significant part of sales are now made online. However, among the beneficiaries of the EU funds is also Tip-top Courier AD with 150 thousand BGN of support. At the same time, on 1 March 2021, a news item was published on the company's website apologising to its customers for the delay in deliveries: *'due to the high volume of shipments and the aggravated epidemiological situation, there may be a delay in deliveries in some locations'*¹⁸.

(d) General hospitals and specialist rehabilitation hospitals (SRH) — for the portion of the activity for which they have a contract with the NHIF, hospitals received unconditionally 85 % of the income reported in January 2020, even if they had not earned it. It is therefore surprising that some hospitals also applied for and received support under the operational programme. For example, St. Sofia Hospital Ltd. has received BGN 150 000 from the mechanism for the support of medium-sized enterprises, and at the same time, for

¹⁸ The aggravated epidemiological situation <https://courier.bg/bg/posts/view/57>

the third quarter of 2020, according to the report of the NHIF¹⁹, there is not a decrease, but an increase in the number hospitalized patients on clinical pathways compared to the third quarter of 2019. A similar situation is with Hospital Vita Ltd.

e) From public procurement to State aid - one of the beneficiaries of the programme is Vaklinov EOOD with UIC 122047217. This company has won a contract for the purchase of food products for the most deprived persons under an operational programme.²⁰ The contract is with the Social Assistance Agency. In fact, with EU money, the CSA must purchase the relevant products, which it provides to the Bulgarian Red Cross, which in turn must distribute them to citizens who meet the relevant poverty criteria. Companies such as Vaklinov appear to be wedged into the whole process, without actually contributing to more effective assistance to people in need - the funds come from the OP, the food products are distributed by the Bulgarian Red Cross on information from the ASA. The presence of such companies in this process can only be explained as yet another mechanism for redirecting funds from public funds to private companies. In addition, Vaklinov EOOD has apparently received BGN 150 000 from the medium-sized enterprise support scheme.

On the OPIC website a list of the projects that received funding per economic activity code is available in pdf format. Regrettably, only 1285 companies (83 % of the total) can be found in the published files. No explanation was provided as to why not all approved projects were included. The data has enabled us to compile a breakdown of companies that received funding per economic sector (according to the NSI classification), as well as the share of funding per economic sector, bearing in mind that the breakdown does not cover all enterprises.

¹⁹ Financial indicators of hospital care facilities 3rd quarter 2020
https://www.mh.government.bg/media/filer_public/2020/11/23/finansovi_pokazатели_na_lzbp_iii_trimesechie_2020.xlsx

²⁰ <http://asp.government.bg/bg/public-procurement/downloadFile/4039>

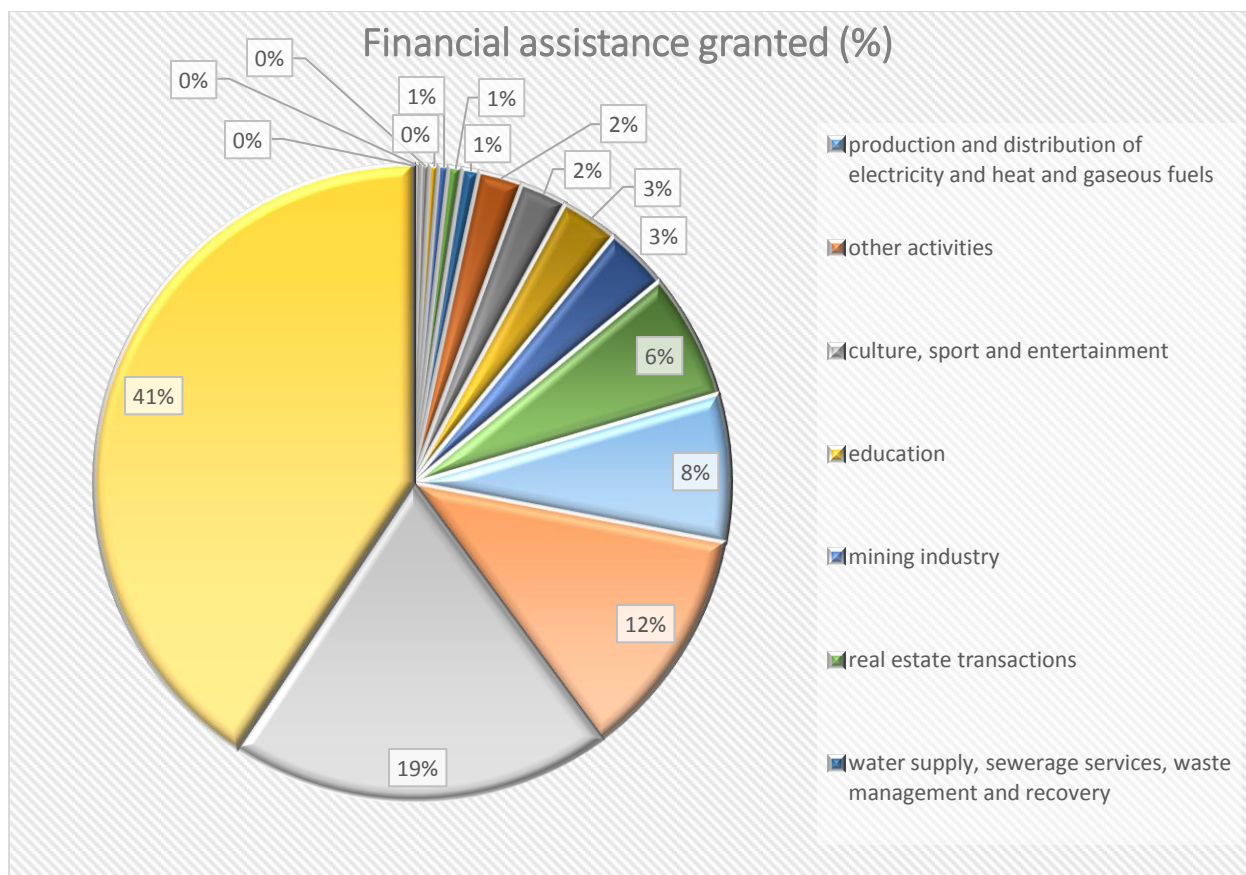


Figure 1 Share of companies that received support by economic sector

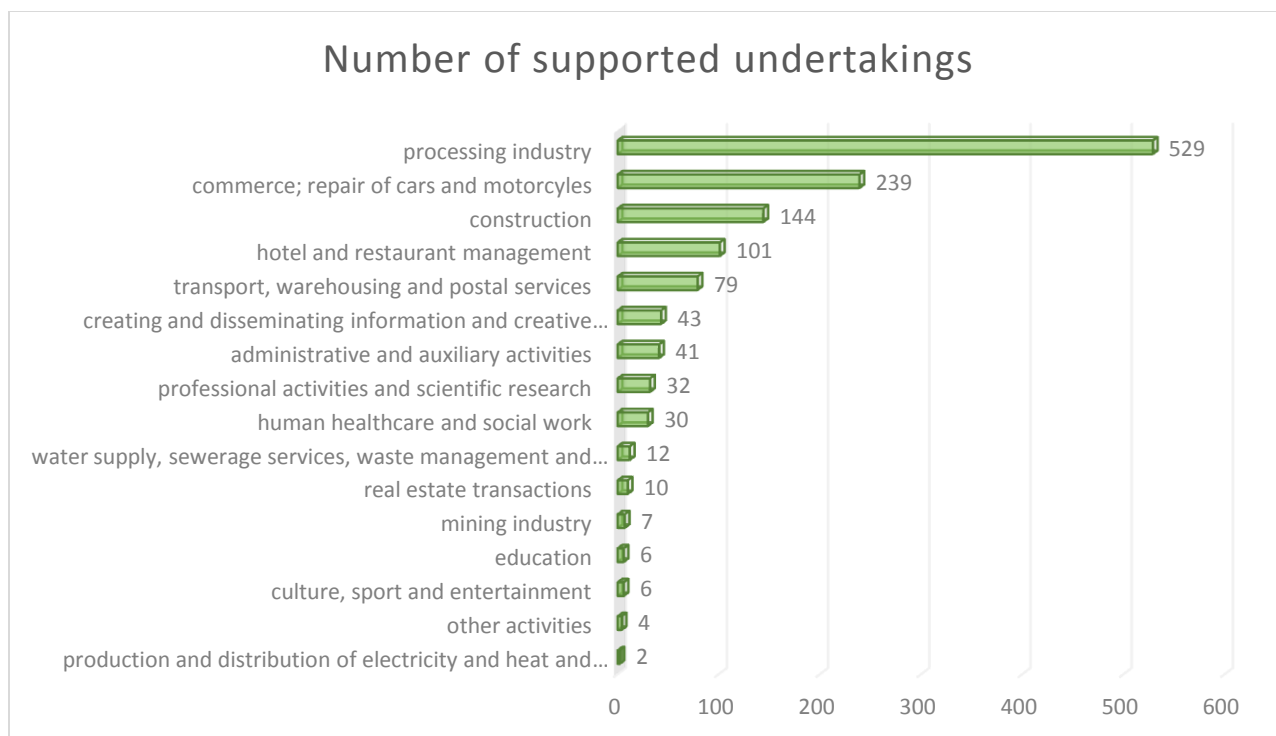


Figure 2 Number of enterprises that received support by economic sector

1.1.3. Percentage of turnover

This type of support only became available at the end of 2020. More specifically, in December 2020 the Association of Industrial Capital in Bulgaria and the trade union CTUB proposed that support should be calculated as 20 % of the turnover and paid to all companies with a demonstrable decline in sales revenues. Government representatives said they would do so, but as late as March 2021 this has not been implemented.

(a) Grants for bus operators – transport was one of the hardest hit sectors by the domestic and international lockdown. Support was provided under OPIC, BG16RFOP002-2.079 'Support to SMEs operating bus services to overcome the economic consequences of the COVID-19 pandemic'. The budget of the support scheme was BGN 30 million, with BGN 25.5 million in EU co-financing. In order to receive the grant, undertakings had to be licensed carriers performing the activity 'Urban and suburban passenger transport' or 'Other land passenger transport not elsewhere classified'. Applicants had to have a turnover of at least BGN 37 500 in 2019 and demonstrate a decrease in turnover of at least 20 % in one of the calendar months in the period between 1.2.2020 and the month

preceding that of lodging an application, compared to the turnover for the same month in 2019. The grants amounted to 8 % of the turnover for 2019. The minimum amount is BGN 3 000 and the maximum BGN 450 000.

To date, 580 companies have received support under this measure, with just over BGN 29 million in disbursed funds. Approximately 10 % of all beneficiaries have received more than BGN 100 000.

(b) Working capital - at the time of writing, two new recruitment processes are underway. One is for small enterprises with a turnover of over BGN 500 thousand. (BG16RFOP002-2.089). Here, the support amounts to BGN 50 000. The total budget is BGN 78 million. The funds are distributed by economic sector, with the largest share allocated to sector G 'Trade; repair of motor vehicles and motorcycles'.

The other procedure is for SMEs that were affected by the latest (November 2020) restrictions (BG16RFOP002-2.095). The total available budget is BGN 156 million. The maximum amount of the grants is BGN 150 thousand for enterprises closed by act of a public authority until 31 January 2021 and BGN 300 thousand for those closed by order until 31 March 2021. Depending on the economic activity of the enterprise, the maximum aid possible is 10% or 20% of turnover excluding VAT.

(c) Support to SMEs in the tourism sector - funds are allocated under OPIC, BG16RFOP002-2.080 'Support to SMEs in the tourism sector to overcome the economic impact of COVID-19 through the implementation of a support scheme from the Ministry of Tourism (MoT)'. The beneficiaries include 720 companies, and the total budget is BGN 70 million. The funds disbursed range from BGN 51,94 to BGN 370 thousand. As the grants are in line with the requirements for *de minimis* State aid, the maximum amount is EUR 200 000 or BGN 391 166.

(d) State subsidy for chartered flights — following approval by the European Commission at the end of July 2020, the measure was launched to pay state subsidies of €35 per seat for

a minimum of 100 filled seats per flight²¹. Unlike the OP projects, this one is difficult to analyse as information on submissions, approvals and rejections is not published. According to a reference sent by the Ministry of Finance to the Ad Hoc Committee in the National Assembly for the control of expenditure of public funds related to addressing the consequences of the spread of Kovid-19, it can be seen that BGN 3.5 million of the total budget of BGN 55 million has been spent.

1.2. Loans at preferential terms

Two weeks after the entry into force of the lockdown, the Council of Ministers adopted a decision authorising the increase of the state's shareholding in the capital of the Bulgarian Development Bank by BGN 700 million.²² The funds were intended to be used to issue portfolio guarantees to the banks to allow them to provide more flexible terms for business loans. Subsequently, part of these funds, amounting to BGN 200 million, were earmarked for interest-free loans for people on unpaid leave due to the crisis.²³

The measure initially targeted only micro, small and medium-sized enterprises in all sectors. According to the terms of the scheme, the commercial bank granting the loan was obliged to reduce its standard interest rate by 0.8 %. Alongside other cases of financial difficulty, an enterprise could also apply in cases of infected employees where this affected the production process. The maximum possible loan amount was BGN 300 000. The programme is expected to disburse and absorb BGN 2 billion in loans, which are guaranteed by the BBB up to 80 % of the amount, i.e. BGN 1.6 billion.

Due to the extremely low uptake of the measure by businesses, in November 2020, by decision of the Council of Ministers²⁴, large enterprises were added to the list of entities eligible to benefit from preferential loans. The size of the possible bank loan per beneficiary was also increased to BGN 1 million for SMEs and up to BGN 2 million for large enterprises. The measure has been extended until the end of June 2021 and the expected credit uptake has been lowered to BGN 1.25 billion.

²¹ State aid for tour operators using air carriers with a valid operating licence to operate charter flights to the Republic of Bulgaria for tourism purposes <https://www.tourism.government.bg/bg/kategorii/covid-19/durzhavna-pomosht-za-turooperatori-koito-izpolzvat-vuzdushni-prevozvachi-s-validen>

²² Decision No. 215 of 27 March 2020

²³ Decision No. 257 of 14 April 2020

²⁴ Decision No 797 of 4 November 2020.

According to the decision of the Council of Ministers, the BBB was required to publish information on the guarantees granted and fill out the State Aid Transparency Module of the European Commission.²⁵ However, it appears that the module is not accessible to all citizens, even after registration on the website. In fact, by the beginning of 2021, businesses had signed contracts for only BGN 158 million.²⁶

There are several other lending measures targeting SMEs, micro enterprises and self-employed. The funds come from the Fund of Funds and Jeremy. The analysis team could not find a list of beneficiaries.

2. Maintaining employment

During the lockdown, the only measure that was intended as support employment was the so-called '60/40' measure, implemented through Decree of the Council of Ministers No 55. The measure has an implementation period until 30 June 2020. It subsequently underwent significant modification, with the change entering into force on 1 July 2020. The relevant rules were laid down in Decree (PMS) No 151 and remained in force until 30 September, when it was once again amended through PMS No. 278 and the deadline was extended to 31 December 2020.

2.1. PMS 55 - the measure was envisaged in the Law on Measures and Actions during the State of Emergency, declared by a decision of the National Assembly on 13 March 2020. The text aimed at preventing unjustified price increases during a pandemic was dropped. The rejection of emergency price regulations was in the interests of speculative business. The final version of the emergency legislation was promulgated on 24 March 2020. **The emergency law was not discussed with the social partners - employers and trade unions - although it made a series of changes to key laws such as the Labour Code and the Social Security Code.**

To enter into force, detailed rules for the implementation of the measure had to be adopted by a dedicated decree. PMS No 55 was discussed urgently in the National Council for Tripartite Cooperation on 27 and 28 March (Friday and Saturday). As a result of long hours

²⁵ <https://webgate.ec.europa.eu/competition/transparency/>

²⁶ The Bank has approved loans for over BGN 268 million under the two anti-crisis programmes <https://bbr.bg/bg/n/bbr-e-odobrila-krediti-za-nad-268-mln-ly-po-dvete-antikrizisni-programi/>

of consultations, the scope of the decree was extended multiple times. The first version included only 16 economic activities — some transport sectors, culture, tourism, sport and catering. The final version ²⁷includes enterprises from all sectors (a very small number of economic activities are excluded) that meet certain conditions - to have registered a drop in sales revenues of at least 20 per cent, to have no debts to the NRA and municipalities, to have no penalty decrees in force for violations of the Labour Code or the Law on Labour Migration and Labour Mobility.

Despite the government's efforts to convince citizens that this is the best that can be done, the number of people receiving these compensations is extremely small. Eventually, three weeks after it started, PPA No. 55 was changed. In the first version, the budget had to cover 60% of the social security income; after the second half of April, the text was now expanded to cover 60% of the social security income and as much of the employer's contributions. However, the main drawbacks to achieving real effectiveness of the decree remained. Significantly more jobs would have been saved if the proposals had been adopted:

- **to increase the part of the insurance income that the budget covers - for the lower incomes 100 %, and for the highest 60 %, for example;**
- **employers to be exempt from any payments during this period as their employees are not working;**
- **the worker to have the right of self-initiative when he is left without a job and income, to be able to approach the employment offices and submit the necessary documents for application.**
- **Transparency**

The first version of PMS No 55 already envisaged an obligation for the NSI to maintain and publish a database of the companies²⁸ that received support under the procedure, with the exception of personal data. For the purpose of conducting an objective analysis, information on:

²⁷ Decree No 55 of 30 March 2020. Determining the conditions and procedures for the payment of compensation to employers in order to preserve the employment of employees during the state of emergency declared by a decision of the National Assembly of 13 March 2020 <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=147260>

²⁸ List of employers who have been paid compensation under PMS No 55 of 2020 <https://www.noi.bg/aboutbg/accinformation/416-pms552020/5909-pms552020>

- the amounts paid and the number of working days for which the amounts were received, as the period may not necessarily be a full month;
- full-time or part-time;
- the economic activity the enterprise is engaged in.

Workers should also have been given the opportunity to check with the NSSI system whether their employers are properly compensating them. The government said it relied on employee activism to monitor whether and how honest employers were, but gave workers no tool to check whether funds had been transferred from the company budget that had not reached them.

However, the published data provide a very good basis for analysing the effects of the first version of 60/40. Such an analysis has been carried out by government agencies, but is only published on the NCTC website, where it is not possible to find it unless the searcher knows the exact date on which the analysis was discussed (14 September 2020) ²⁹.

After the introduction of the state of emergency, the meetings of the National Assembly were closed to journalists, as they are no longer held in the Council of Ministers, but online. After the end of the meeting, the chair of the NCTC, Deputy Prime Minister Mariana Nikolova, published a brief summary of the discussions. This is woefully inadequate. Before the pandemic, the only option for the social partners to publicly state their position on the projects under discussion was the briefing that traditionally took place after the end of the meetings in the Council of Ministers, which was always attended by dozens of media. In addition, the journalists themselves had the opportunity to observe what was happening, what the arguments of the different organisations were at the live discussion in the MC room and to ask questions afterwards. The meetings are now held online, without external access, and a transcript is published, which, although detailed, is produced when the topic is no longer topical - there is no hidden agenda here, the discussions are often very lengthy, which implies more time for the preparation of the transcripts. **The only option to bring back publicity and transparency to the work of the NCTS is to broadcast the meetings live.**

²⁹ NCTC, NCTC Meeting Minutes No. 20 of September 14, 2020 (Part III)
https://saveti.government.bg/c/document_library/get_file?p_l_id=10631&folderId=1477449&name=DLFE-9548.zip

Results of PMS No 55:

- For the period until 30 June 2020, the amount of BGN 186.2 million was disbursed out of the BGN 1 billion earmarked for the Unemployment Fund of the Social Insurance Institution. The disbursement continued until 19 January 2021.
- 8,985 companies received funds from the state budget. Some of the companies (85 by September) have returned compensation already paid to them because they were not eligible, but this was only discovered after they had received the funds.
- According to the published data, the wages of almost 169,000 persons are supported by the budget. The official government analysis as of September shows 172 thousand employees, which is a possible difference if companies were listing different, rather than the same, employees. However, the **number of Bulgarian citizens covered is certainly less than the 240-300 thousand persons** that were publicly disclosed by various government officials.
- The forecast of jobless growth made in the official government analysis claims that the decline in the number of newly registered unemployed starts from 9 April 2020, when, according to the authors, the '60/40' measure starts to apply. In fact, PMS No 55 was adopted on 30 March and starts to apply the very next day³⁰. The daily peak of newly registered unemployed (9 030 persons) was recorded on 6 April. Information on the daily number of newly registered unemployed was requested from and sent to the social partners³¹.
- 35.2 % of those who started work in June actually returned to their old jobs, or 13 000 people (Monthly Bulletin 2020, June AZ). Apparently, the measure was not attractive to them and their employers. **Thus, the workers received the minimum benefit for two months and lost their right to receive unemployment benefit again within the next three years.**
- The design of the measure allowed the employer to use funds from the state budget and at the same time force its workers to take paid leave. Thus, '60/40' measure did not achieve its goals of safeguarding employment, since funds for paid leave are due

³⁰ Employment Agency Monthly Bulletin - June 2020 <https://www.az.government.bg/bg/stats/view/2/318/>

³¹ Vanya Grigorova, "Analysis of Socio-economic Measures to Address the COVID-19 Crisis in Bulgaria" <https://solidbul.eu/analiz-merki/>

from employers in all situations, even upon termination of employment. The problem is conceptual. But because the government knew that few employers would be willing to make a 40% supplemental payment for employees who were not working, it left room for this, essentially, irregularity.

On 11 March 2021, the European Foundation for the Improvement of Living and Working Conditions (Eurofound) published an analysis³² covering all EU Member States. In preparing the analysis, the European organisation relies on local experts³³ - a consortium of the "Institute for Social and Trade Union Studies" at the KNUB and the NGO "Balkan Institute for Labour and Social Policy" chaired by Ivan Neykov. Following the public outrage that³⁴ the government had provided the lowest level of support to the country's workers compared to almost all other countries, the Minister of Labour and Social Policy, Mrs. Sacheva, sent a rebuttal to the Foundation. As a result, 12 days after publication, the analysis was edited, and Bulgaria now ranks at the top in terms of the amount and scope of support for employed persons³⁵.

The dispute is about whether the workers received 100 % of their wages owing to the measures or not. Technically, the employees covered by the measures received their full salary because such a provision was adopted in the Emergency Law. However, 40 % of the salary and social security contributions are to be covered by the employer by law. This is one of the main reasons why many companies did not apply under the support scheme. This is not mentioned in the report, although a few other countries are listed where the employer has paid the extra amounts. It thus appears that the state budget paid 100 % of the wages, which is incorrect. In addition:

- On the basis of the analysis of Eurofound it can be concluded that the Bulgarian government did not require the applicant companies to be in good

³² Eurofound, COVID-19: Implications for employment and working life

https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef20050en.pdf

³³ Network of Eurofound Correspondents: Contractors (2018-2021) <https://www.eurofound.europa.eu/bg/network-of-european-correspondents>

³⁴ Dilyana Dimitrova, "Bulgaria is last in the EU in support against the crisis", Sega newspaper

<https://www.segabg.com/hot/category-bulgaria/bulgariya-e-posledna-es-po-podkrepa-sreshtu-krizata>

³⁵ Dilyana Dimitrova, "Sacheva moved Bulgaria to first place in the EU in aid for lockdown", Sega newspaper

<https://www.segabg.com/hot/category-bulgaria/sacheva-premesti-bulgariya-na-purvo-myasto-es-po-pomoshti-za-lokdauna>

financial health. On the contrary, PMS No 55 clearly states that companies should:

- have no outstanding tax and social security contributions;
- are not bankrupt or insolvent or in liquidation.

Although there is a rationale to the restrictions, it has to be said that this has once again narrowed the scope of companies that were eligible to apply.

- The European report analyses countries that have set a requirement for a certain percentage drop in turnover. Bulgaria is not there. In fact, among the criteria for access to 60/40, it is written: applying employers should "have declared a reduction in sales revenue of at least 20 per cent".

The "inaccuracies" in the first version of the report were explained by the chairman of one of the correspondent organisations as a "blunder" by European officials³⁶. The incorrect way of transmitting information from Bulgaria to the European institutions leads not for the first time to unrealistic coverage of the situation in the country in European analyses, debates and policies.

2.2. PMS No 151

This concerned the second stage of implementation of the 60/40 measure. One of the differences is in the social security income, the basis of which becomes the social security income from May, so the daily social security income is now higher, hence the increase in compensation. But the main difference is that it was now paid exclusively to companies that were operating, generating revenue and, therefore, a profit. PMS No 151 provides for **direct grants from the State budget to the private sector**. The requirement was that the companies had ceased operating under an internal order or an order of the Minister of Health during the lockdown until 30 June. However, the amounts under PMS No 151 are payable for the period between July and September 2020.

³⁶ Ivan Neykov told novini.bg: Technical blunder sent us to the bottom of the EU in receiving aid
<https://novini.bg/bylgariya/obshtestvo/653322?fbclid=IwAR3E9pp7wpTtgIxUCmMPOVU81OSzzU963FUa2F8xQ3MGvMbF89XxN7TRyGQ>

Here again there is a requirement to publish the companies receiving these funds on the NSSI website.

Results:

- BGN 345.2 million have been paid out of the BGN 1 billion transferred into the Unemployment Fund of the National Social Insurance Fund at the beginning of the state of emergency.
- 4929 companies are covered. No formal analysis has been published, so conclusions can only be drawn from the tranche summaries³⁷. The companies that received tranches probably worked in the period for which they received the compensation. Their number is half the number of companies that received funds in the previous period under PPA 55.
- A total of 10,472 companies received compensation under either of the two versions of the measure - 7,030 of them under only one version of the 60/40 measure, 3 442 companies under both PMS No 55 and PMS No 151. **Because of the criteria being set out this way, the same companies received support under the two decrees.**
- The number of employed persons who received funds from the State budget up to September stood at 233 760, defined as the maximum number of employees claimed by enterprises. There may be slight, and insignificant, deviations here.

2.3. PMS No 278

The reason for the adoption of this Decree, which once again refers to the 60/40 measure in its second modification, was to extend the measure until 31 December 2020, change the month used as the basis for determining the person's social security income (from May to August) and add another economic activity from which companies can apply. In fact, funds continue to be paid to companies whose activity was restricted until 30 June 2020 and have a 20 % drop in revenue from the previous year. Data on recipients is published on the NSSI

³⁷ List of employers to whom employment retention funds have been paid under PMS 151 of 2020
<https://www.noi.bg/aboutbg/accinformation/419-pms1512020/6089-pms151zaetost2020>

website³⁸. In fact, disbursements continue to be made to companies whose operation was subject to restrictions until 30 June 2020 and their income fell by 20 % compared to the previous year. Information about the recipients of the grants is published on the website of the NSI³⁹.

Results:

- 6 803 companies received funds for the period October and December 2020 to 5 March 2021 under this decree. An increase was reported compared to the previous July-September period.
- The compensations amounted to BGN 307.5 million. Until 5 March 2021, **the total amount of support paid under the different modifications of the 60/40 measure from March to December stood at BGN 839 million.**
- 6 246 companies benefited from compensation under one of the three decrees; 2 770 companies under two of the decrees; 2 977 companies received support under all three employee retention decrees. The total number of supported businesses stood at 11 993.
- The number of employees compensated by the companies is 258 thousand.

2.4. PMS No 416

This concerns yet another extension of the 60/40 measure from January 1 to March 31, 2021. Here, for the first time, companies whose activities have been restricted due to the pandemic crisis after June 2020 were also allowed to apply, and the deadline was extended to 31 December 2020. However, this decree was promulgated on 8 January 2021. This limits the possibilities for abuse - for example, a company that does not actually have difficulties cannot issue a stop-work order under Article 120c of the Labour Code solely in order to benefit from compensation. On the other hand, companies may be experiencing hardship but not use this article and switch to a stay, but thus no longer have the option of using the assistance.

Results:

³⁸ List of employers to whom employment retention funds have been paid under PMS 278 of 2020. <https://www.noi.bg/aboutbg/accinformation/420-pms2782020/6214-pms278zaetost2020>

³⁹ Economic activity code 49.39 'Other passenger land transport n.e.c.', of the Classification of Economic Activities (NACE Rev. 2)

- 3 260 companies received funds for January and February through to 5 March 2021.
- Compensation was paid to 74 020 persons in the amount of BGN 62.5 million.
- Looking at the funds received under all variations of 60/40 measure, 5 781 companies received the compensation once; 2 475 twice; employees of another 2 606 companies received support under three decrees; 1 357 under all variations of the 60/40 measure.
- The total number of employees compensated is almost 264 thousand.⁴⁰

**Compensation paid and number of companies that
received support under the different 60/40 options**

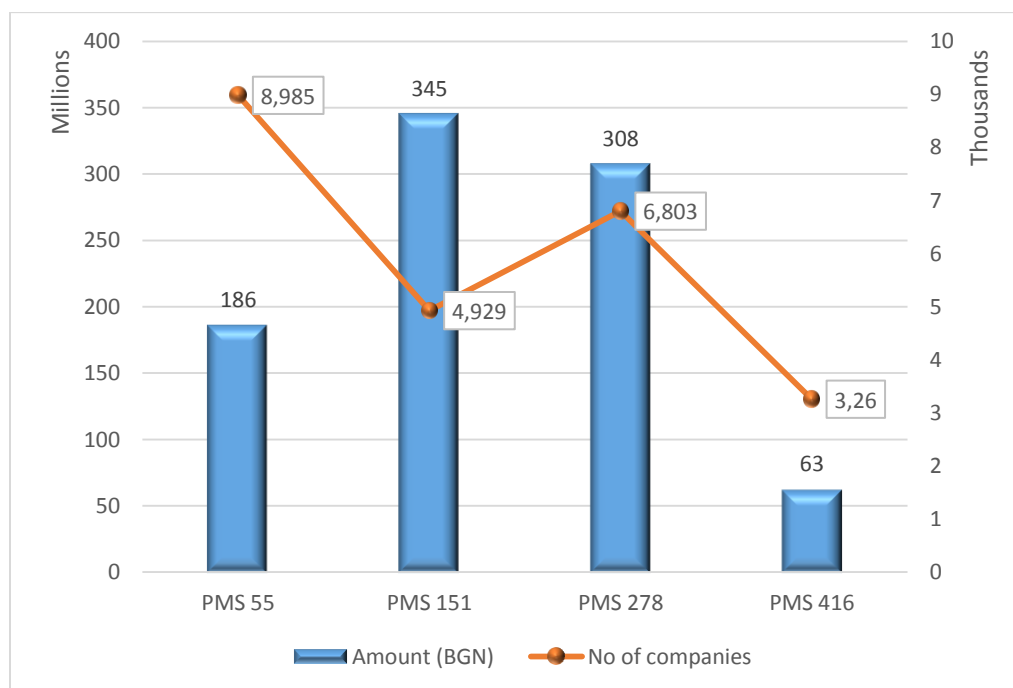


Figure 3 Compensation paid and number of companies that received support under the different 60/40 options

⁴⁰ The data are as of 5 March. The day before, the Minister of Labour and Social Policy stated that the employment of 300 thousand people was preserved.

Number of employees compensated under 60/40 options

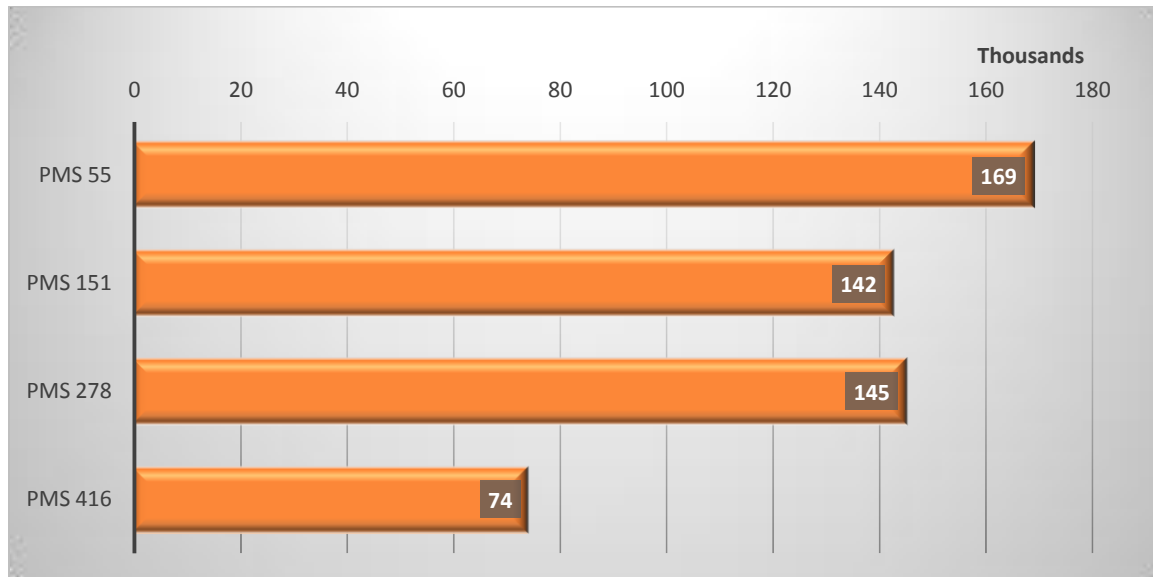


Figure 4 Number of employees compensated under the '60/40' options

Distribution of enterprises by the number of PMS, for which they have received compensation (number and percentage)

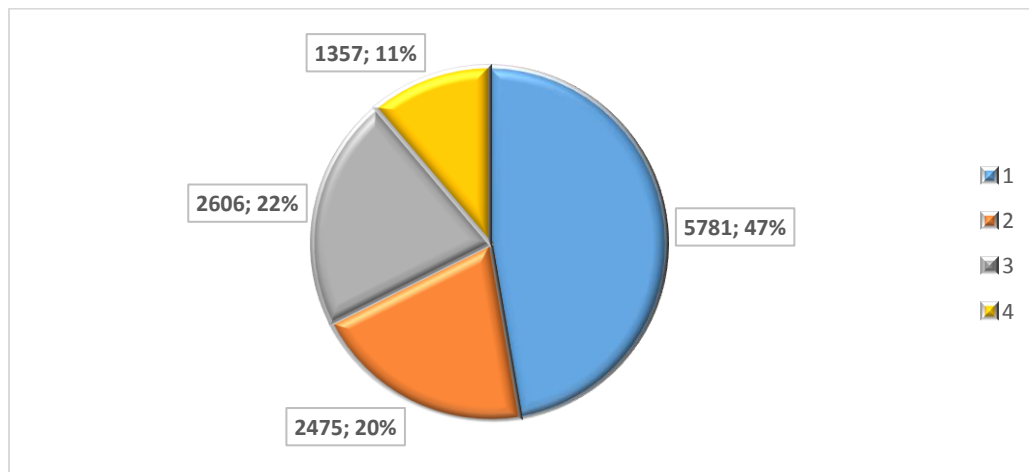


Figure 5 Distribution of enterprises by the number of MNEs compensated

2.5 Employee Retention under PMS No 325

The measure was approved on 26 November 2020, in light of the fact that the government closed a number of businesses the following day. Under PMS No 325/2020, compensation

of BGN 24 per day is paid to workers in sectors affected by the lockdown, if they have taken unpaid leave. Unpaid leave may only be taken on the initiative of the employee. The alternative is not to take unpaid leave, in which case the employer owes the worker full wages. In the clear knowledge that a large proportion of working small businesses no longer had any reserves, the government adopted this measure, which was intended to provide an income close to the net minimum wage. In terms of amount, the compensation is equal to two times the daily minimum unemployment benefit.

A problem with this measure is the procedure by which it is implemented. The worker must submit a declaration to his employer stating that he wishes to receive the compensation. The employer must then submit an application to the Employment Agency. However, no **guarantee was laid down** in the decree that the employer would proceed with the procedure once it had received the declaration from the employee. Since the receipt of funds largely guarantees increased attention to the company by the controlling state institutions, many companies are reluctant to apply at all.

During the period of implementation of the Employee Retention measure another defect manifested itself, which was obviously not accepted as such by the government, since they refused to correct it. In the case of unpaid leave, **health insurance premiums should be paid by the worker** through the employer. With such low monthly incomes (compensation is paid per working day and not paid for holidays) many workers cannot afford this payment. In a situation of health crisis, this has undoubtedly increased the number of uninsured citizens. In order to regain access to health care, they subsequently have to pay health insurance during all months without health insurance in the last 5 years. During unpaid leave, **there are also no contributions to pension insurance**, which is not a problem for the state pension afterwards, but the shortfalls in contributions to private pension funds are not compensated for, which affects the pension supplement from the PMS.

The last, more significant, flaw in the measure is that PMS No 325 stipulates that compensation is due not from the date the employer files the application, but **from the date of the commission's approval** at the employment agency. This was presumably done due to the fact that the employees of the AH were burdened with many additional activities that

were not typical for their institution. They did not have the physical capacity to process applications for the next measure and delays were expected. And this was used to further reduce the funds needed for compensation.

The amount of the compensation was changed from BGN 24 to 75 % of the person's insurable income by PMS No 418 of 30 December 2020. This amount sounds more adequate, but in some cases - for example at minimum wage - it is actually less than the net amount of the same. However, the Government have refused to put on the record that the new rate cannot be less than BGN 24 a day. All these shortcomings have probably forced some workers to resort to unemployment benefits, which defeats the purpose of measures to preserve employment. Statements from business owners can also be found who claim that two months after the measure began their employees have still not received any money.⁴¹

Total results for both Decrees:

- The applications of 1114 companies were rejected.
- Employees of 8,949 companies were compensated.
- 48 314 compensations have been paid, but this does not equal the number of persons as some are duplicates. It is not clear from the published information how many were compensated for more than one month.
- Public data do not contain information on the amount of funds disbursed.

2.6. The 80/20 measure

In fact, under this measure, BGN 290 is paid per approved applicant, but it is permissible for the measure to be combined with 60/40 measure, where the support should not exceed 80 % of the employee's social security income. This applies to the sectors of tourism, the hospitality and catering industries and the transport sector. The mechanism and scope of this support were first defined in the Council of Ministers' Decision 429 of 26 June 2020 and subsequently the possible support period is extended from 6 months to "no later than

⁴¹ Petar Angelov, President of the Bulgarian Health and Fitness Association
<https://btvplus.bg/produkt/novini/30097/btv-novinite-centralna-emisija-25-01-2021>

31 March 2021" by the Council of Ministers' Decision 982 of 31 December 2020. This amount includes taxes and social security contributions at the expense of the worker and the employer, so the net amount going to the worker is BGN 189.

In order to receive these compensations, the employer should account for at least a 20% reduction in earnings. Municipal companies can also be included here. The second decision of the Council of Ministers states that the funds will be reimbursed from the Human Resources Development Operational Programme.⁴²

- On the website of the Employment Agency, which administers the process, decisions on the applications of 2,450 companies can be found. The applications of 2044 companies for 32 150 employees have been approved.
- The disbursements up to the beginning of March 2021 amount to BGN 66 million.
- The largest number of workers of one company that received these compensations was Capital City Transport – 1 497, but only in one month. Among the companies with more than 300 people are several large transport companies, Sunfoods Bulgaria Ltd (better known as McDonalds), Aladdin Foods Ltd and PRO.

2.7 Employment for you

Under this programme, employers have the opportunity to hire unemployed people for whom they receive funds from a European project⁴³. The cost of the minimum wage, or a pro rata share of it where working hours are part-time; social security contributions and certain benefits are borne by the employer. The maximum period of support is 6 months. From the total amount of BGN 160 million, a quota of BGN 50 million was allocated to the tourism, hotel and restaurant sectors.

Results⁴⁴:

- Applications from 7502 companies have been approved. There is no information on how many of them and how many workers have been contracted.

⁴² Project BG05M9OP001-1.104-0001 "Short-term employment support in response to the COVID-19 pandemic", funded by the Human Resources Development Operational Programme, co-financed by the European Union through the European Social Fund

⁴³ Project BG05M9OP001-1.106-0003 "Employment for you", financed by the Operational Programme "Human Resources Development", co-financed by the European Union through the European Social Fund

⁴⁴ <https://www.az.government.bg/pages/concern-for-you/>

- The programme aims to bring the number of newly unemployed to 35,000, with 22,158 applications approved by the beginning of March.
- Assuming that all claimed vacancies were filled by registered unemployed and that all claimed months were in 2021 (*which obviously cannot be the case, but it cannot be established from public information when the funds under this programme were used*), the maximum amount of funds spent is 79.5 million BGN.

For all the measures, whose publicly announced objective was to largely preserve employment (and for some to create employment), just over BGN 1 billion have been paid. Some of these funds have been returned by employers, some have not been given at all - this is the approximate amount we can arrive at on the basis of published official figures. The breakdown by individual programmes and measures can be seen in the following table:

Measure	Disbursements in million BGN	Number of companies	Number of employees
PMS 55	186.2	8985	168,814
PMS 151	345.2	4929	142,469
PMS 278	307.5	6803	144,959
PMS 416	62.5	3260	74,020
Employee Retention scheme*	23	8949	
80/20	66	2044	32,150**
Employment for you*	79.5	7502	
TOTAL	1069.9		

Table 2 Disbursements by measure

The data are from the websites of the NSSI and the AZ.

* The amounts for these programmes are estimates as they are not shown in the published official data

** total number, among which there are repeat employees, i.e. the assisted persons are fewer

PMS	Amount / EUR /	Number of companies	Number of employees
PMS 55	186,240,116	8985	168,814
PMS 151	345,238,713	4929	142,469
PMS 278	307,569,762	6803	144,959
PMS 416	62,559,100	3260	74,020
Total	901,607,691		263,837

Table 3 Number of firms and workers assisted under the PMS

2.8. Interest-free loans

The decision to grant interest-free loans to persons on unpaid leave and self-employed persons was taken on 14 April 2020.⁴⁵ For this purpose, the capital of the Bulgarian Development Bank was increased, with BGN 200 million earmarked for these loans. The requirements for persons on an employment contract included: to have worked at least 5 days in March 2020; to have been in an employment relationship for at least the last 6 months; to have no income from other jobs; to be on unpaid leave. For the self-employed, a criterion has been introduced to have recorded at least a 20 % decrease in their income in the first quarter of 2020 compared to their income in the first quarter of 2019. In addition, for both groups, they had to have paid contributions and returned to work/reinstated their insurance. Despite all the criticism from social partners that they should not be required to have paid insurance, this barrier continued to exist until June. In reality, the worker has no influence on whether the contributions due will be paid. That is the responsibility of employers.

The programme stipulated that no fees were due. It is true that the person does not owe any fees for reviewing the documents and for the granting and management of the loan, but each commercial bank has different fees for opening and managing accounts that are not covered by the program.

At the end of 2020, the deadline for applying for an interest-free loan was extended until 30 June 2021. The loans have a maximum maturity of 5 years, with a minimum of 6 months and

⁴⁵ Decision of the Council of Ministers No 257 of 14 April 2020.

a maximum of 24 months grace period. The following graph shows the interest in this lending, which was not significant. It can be inferred that the expectations of citizens were towards the provision of grants rather than new loans.

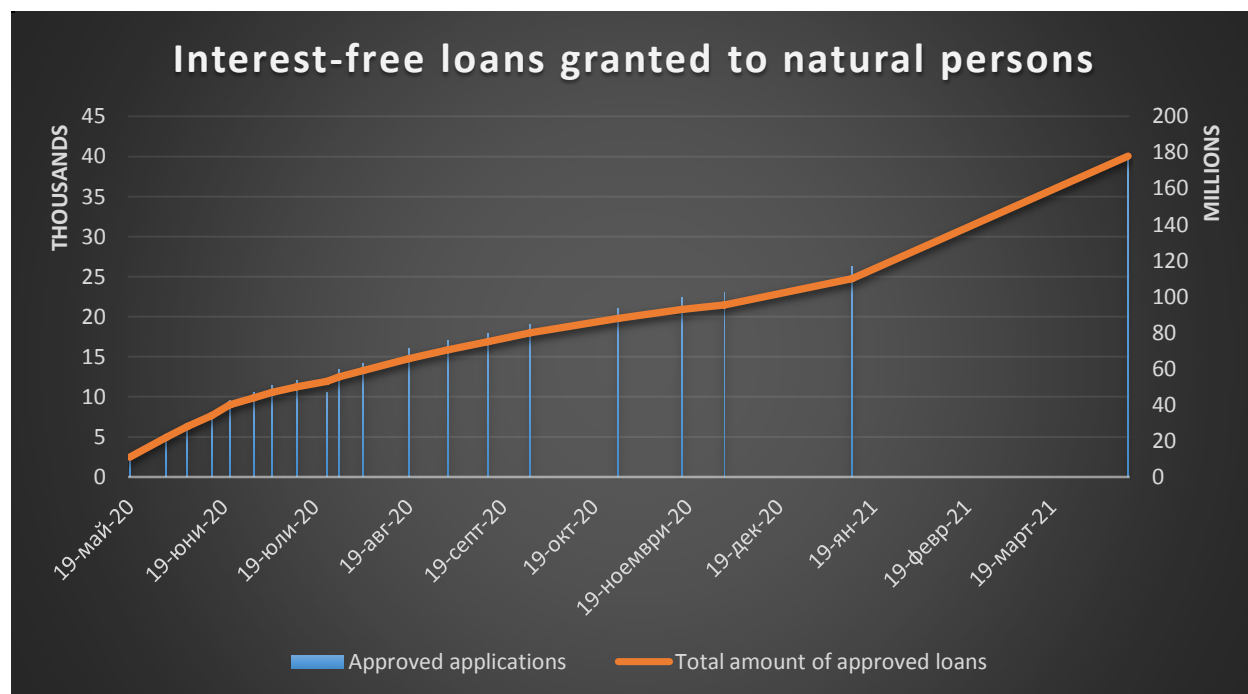


Figure 6 Interest-free loans to individuals

The information on the loans disbursed is from the BDB's website but is not published in a single database. The indicators by date are taken from the news section, where a brief summary presents the number of loans, the total and average amount, and the number of citizens who applied. Exact numbers are sometimes mentioned rather than approximate numbers. This is the reason for the illogical drop in confirmed claims on 23 July 2020, which is clearly visible in the chart.

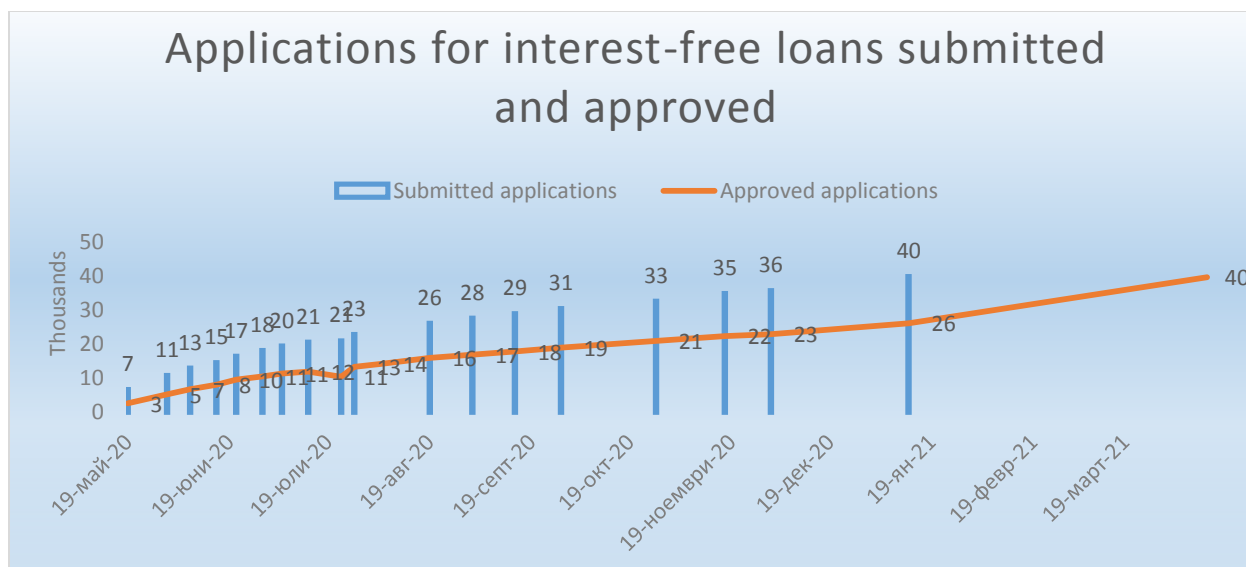


Figure 7 Interest-free loans submitted and approved

3. Social measures

Here we will only look at the support measures that were put in place because of the state of emergency and the epidemic emergency. Actually, there were basically two of them, and both were aimed at parents who could not work because of the pandemic.

3.1. One-off support for parents of children up to 12 years of age in the amount of 375 BGN.

This support was only introduced at the end of April 2020 — more than a month after the introduction of the lockdown in Bulgaria. It is important to stress that this is not an emergency measure - it is the standard one-off assistance that Bulgarian citizens could receive in the event of unexpected difficulties. However, extremely restrictive criteria were set here: the applicant parents raising children up to the age of 12 had to have been insured for the last 6 months; they had to have used all their paid leave and be on unpaid leave for at least 20 days. It is almost impossible for a worker to have used the full amount of their paid leave at the beginning of the year. In addition, the applicants' income should have been less than BGN 610 per family member.

For this measure the Ministry of Labour and Social Policy announced that BGN 20 million were allocated. Due to the imposition of requirements that make the measure unworkable and even discriminatory against people who have switched to part-time work and have also lost income, complaints have been lodged with the Commission for Protection against

Discrimination⁴⁶. According to statements made by the Social Minister, a month and a half after the start of the measure, only 2 500 parents have been granted assistance.⁴⁷ In order to make the measure more effective, at the beginning of May 2020 it could already be applied to parents of children up to the age of 14, and the requirement that all paid leave had been used was removed. **Data on the final results of the measure have not been published on the website of the Social Assistance Agency.** A reply by the Minister of Labour and Social Policy, given in the National Assembly on 13 November 2020, shows that only 3 700 families had received assistance.⁴⁸ In other words, only BGN 1.4 million have reached the citizens.

3.2. Monthly support for parents of children up to 14 years of age who are unemployed or on unpaid leave due to the closure of kindergartens and nurseries and the transition of schools to distance learning. This social assistance is provided by the adoption of a new Article 16b of the Regulations for the Implementation of the Social Assistance Act, the change was promulgated in the State Gazette on 17 August 2020. The amount of the aid, which is now BGN 610 for one child and BGN 915 for two, has been increased. What makes it work is the fact that it is no longer a one-off payment, but a monthly one, and is paid whenever children go on to distance learning. Further changes were made to this article at the end of November to restrict access, but the measure still retains its high potential.

However, it was during this period that the incidence of COVID-19 was skyrocketing, the Minister of Health's order restricted the activities of some businesses, and students switched to distance learning. Interest in the measure grew as this social assistance remained the only possible source of income for many families. At that point, the Social Assistance Agency sent its directorates specific instructions on how exactly to interpret and apply Article 16b. Through the instructions in question, the headquarters of the Social

⁴⁶ No help for mothers who lost income due to coronary crisis

<https://solidbul.eu/%d0%bc%d0%b0%d0%b9%d0%ba%d0%b0-%d1%81%d0%b8%d0%b3%d0%bd%d0%b0%d0%bb%d0%b8%d0%b7%d0%b8%d1%80%d0%b0-%d0%ba%d0%b7%d0%b4-%d0%b7%d0%b0-%d0%b5%d0%b4%d0%bd%d0%be%d0%ba%d1%80%d0%b0%d1%82%d0%bd%d0%b0%d1%82/>

⁴⁷ Denitsa Sacheva: Over 2 500 people have been approved for a one-time aid of 375 leva so far

https://www.actual.com/society/denica-sacheva-over-2-500-souls-are-approved-for-one-time-pomosht-ot-375-left-news_1468551.html

⁴⁸ Transcript of the sitting of the National Assembly held on 13 November 2020

<https://www.parliament.bg/bg/plenaryst/ns/52/ID/10512>

Welfare Agency restricted access to the benefit. They state that parents who lost their jobs before the state of emergency and are unemployed for other reasons are not eligible for support.

It should be stressed that there are cases where a parent has already been approved by an employer to start work before 13 March, but due to the onset of the crisis and the employer's restricted activities, the vacancy is not filled. The responsibility does not lie with the parent who, in the new situation and with increased unemployment, has very limited opportunities to find a new job. There are also cases where the parent has a terminated contract in the context of the epidemic emergency, but is refused because the employment relationship has been terminated due to the end of a temporary contract.

Many parents appealed the refusals received from the SSP through the RSPB. For some of them the refusals were reviewed and reversed. For those where the reason for not being granted was the fact that they had lost their jobs before 13 March, the refusal was upheld. There are therefore cases before the administrative courts against the refusals, which are the result of instructions from the ASA essentially rewriting the implementing regulations.

According to the answer of the Minister of Labour and Social Policy to a question asked by an MP, in the period November 2020 - 18 January 2021, a total of **48 195 applications** were accepted in the Social Assistance Directorates. Positive decisions were issued in 36 213 cases; 8 954 applications were refused. The disbursed funds amounted to BGN 26.5 million. BGN 85 million have been allocated for the measure.⁴⁹

A question sent by a media outlet to the ASA and the MLSP about the reasons for the refusals has not been answered for three months. There is no public breakdown of the reasons for refusal. There has also been no response to complaints from citizens that they have even had their applications refused by Social Welfare Directorate officials. The measure with the highest potential has indeed seen a significant increase in the number of citizens covered, but it is also the mechanism that has been most controversial because of the **opacity of decision-making, the lack of public information about the results, the reasons**

⁴⁹ Transcript of the sitting of the National Assembly held on 22 January 2021
<https://www.parliament.bg/bg/plenaryst/ns/52/ID/10534>

for refusal, and the change made to the rules by way of guidelines, which the court could declare illegal.

All other social measures that government representatives claim to be anti-crisis are either worked-out policies or represent increases in payments that have been held back for many years. This applies to the standard support for people with disabilities, to the increase in salaries for personal assistants, to the aid for the beginning of the school year for children in the first and eighth grades. Nothing to do with the crisis and the increase in the tax credit for children - the MLSP presented it very misleadingly at the beginning of 2021.⁵⁰ In the first working days after the New Year holidays, the ministry posted a series of informative graphics on social media about the measures it administers. In reality, this increase will only be felt by working parents in 2022, as that is when the previous year's tax is refunded. In addition, the increased tax relief for children will only apply for one year, as Article 22c of the Personal Income Tax Act, where the rules for the tax relief for children are regulated, has not been changed. The increase was made through paragraph 9 in the Transitional and Final Provisions of the State Budget Act 2021, i.e. its effect only applies to the current year. The increase in both the minimum wage and the minimum pension was part of the coalition agreement in the last term. And the monthly supplement of BGN 50 for pensioners was more of a pre-election rather than anti-crisis nature, as pensioners are not among the groups of citizens who lost income. The measure was extended several times. Subsequently, the opposition, which had criticised the supplement, began in its turn to insist that it be extended. This is an unsustainable way of increasing pension incomes; they are vulnerable because they can be revoked at any time without the need for justification. If pension incomes were really a priority for the government, they would have to be recalculated so that no one could cancel the increase.

Unemployment benefits were increased from BGN 9 to BGN 12 after years of both nationally representative unions demanding compensation that would guarantee an income at least a on a par with minimum wage. Even with this increase in the minimum payment, it is far below the minimum wage. It has been publicly stated that the period for receiving the minimum unemployment benefit, which is 4 months, will be extended by

⁵⁰ <https://www.facebook.com/MinistryofLabourandSocialPolicy/photos/2761052324144015>

another 3 months. But in fact this applies only to a small proportion of people who receive the minimum benefit.

One of the most commented and controversial topics for the society is the 30% pay increase for a large part of the civil servants. The government has declared this move to be anti-crisis. In the public it was read as buying civil servants for the elections and quelling street tensions⁵¹. Undoubtedly, the government had no reason to make this increase except to win the civil servants to their side. However, in reality the public sector was the most undervalued before the increase. As a result of the 2012 reform, salaries were almost frozen. This can be seen from a more detailed look at the number of newly registered unemployed, where those traditionally working in government jobs account for almost half of all newly registered citizens who have lost their jobs.

The social measures listed so far may raise concerns about misuse of state resources for electoral purposes. It is not the allocation of funds itself that is perverse, but the situation in which:

- Recipients have been deliberately and long-term undervalued (civil servants);
- social assistance is not granted according to the legal rules, but with additional instructions to state institutions (assistance for parents);
- Compensating socially vulnerable groups who are disadvantaged because of policies that have been in place for years and not because of the pandemic (pension supplements).

Traditionally, Bulgaria ranks first in the European Union in terms of number of people at risk of poverty. They either receive low wages, have small pensions and/or have no savings to meet unexpected crises like the pandemic. The socio-economic situation in which these people find themselves is the result of long-standing policies. But it is precisely because of their vulnerable position that the few emergency funds, and in an election period at that, with which to support their household budgets are often enough to attract them as voters. These processes are favoured by the depoliticization of Bulgarian citizens and their frequent refusal to recognise any of the existing political entities. **It can be summarised that**

⁵¹ See more in. Abuse of state resources for party and electoral purposes in Bulgaria. S., 2020, available online at: http://www.bili-bg.org/cdir/bili-bg.org/files/ASR_FULLL_BG.pdf

the creation and maintenance of a significant group of people at risk of poverty and social exclusion in the country and the consistent alienation of these citizens from the political processes create preconditions for the electoral influence of the government, which is a consequence of a one-off attention to vulnerable voters at the appropriate time, rather than the overall policy pursued.

4. Healthcare

The healthcare system in Bulgaria is chronically underfunded. Health spending as a share of GDP was approximately 5 % in 2019, while the EU average is 7 % of GDP. In addition, the system allows for senior management positions to be prioritised over employees who are lower in the hierarchy of the healthcare establishment. The distribution of funds from clinical pathways within hospitals is opaque. The state of the infrastructure and low pay force medical staff to seek employment outside the country, while in Bulgaria a severe shortage of doctors in certain specialties and nurses has been felt for years.

It is noteworthy that on the website of the NHIF for some months detailed data on the number of hospitalized, what proportion of them were sick from COVID-19 and how many were hospitalized in the previous year 2019⁵² ⁵³

The total number of hospitalized citizens from the beginning of March to the end of the year was 56 511 and the funds from the NHIF for this treatment amounted to BGN 65.3 million. From the data published on the website of the NHIF it is evident that for five months there has been a significant increase in the expenditure for the type of patients from the NHIF. Slightly less than BGN 4.5 million was spent from 1 March to 23 August.⁵⁴, and by 17 January 2021 they are already BGN 84.5 million.

⁵² Information on the number of hospitalizations on clinical pathways in the hospital care facilities contracted with the NHIF for the months of June and July - 2019 and 2020, including patients with COVID-19

https://www.nhif.bg/news_page?id=420425&page_id=10204§ion3_page=3&archive3=2020

⁵³ The data were requested by the NHIF under the FOIA.

⁵⁴ https://www.nhif.en/news_page?id=420431&page_id=10204§ion3_page=3&archive3=2020

All contracts, rules, methodologies and their amendments, under which payments are made by the NHIF, are part of the National Framework Contract for Medical Activities for 2020-2022. This includes the prices of clinical pathways and clinical procedures.⁵⁵

4.1. Bad practices in the Bulgarian healthcare system in a non-pandemic environment

Here we will briefly summarize some of the more common abuses that are widely used in the health care system in Bulgaria. These are standard practices that have no bearing on the current crisis, but point to ways in which the drain on the NHIF budget and citizens is likely to have continued in the emergency.

4.1.1. Length of hospital stay - the regulated length of stay for clinical pathways is a minimum, not a maximum as is often presented to patients. Medical staff discharge the patient most often after the minimum hospital stay, regardless of whether the patient has actually recovered. Longer stays mean higher costs for the hospital, and the principle of revenue maximization logically leads to the relief of costs that are not necessarily imputed. In fact, the cost of a clinical pathway is calculated on the basis of the average, typical case, which means that it covers costs above the minimum, relying on the fact that higher costs in more severe cases will be offset by lower costs in milder ones.

In the current crisis, cases have become known in which patients are discharged as recovered after treatment for coronavirus, but days later die at home from the complications⁵⁶. The hospital has fulfilled its obligation under the clinical pathway, the NHIF has paid, but in fact the patient has not been cured because the minimum period for hospital treatment has been exhausted. In this particular disease, there are also cases - the so-called long cohort - in which complications appear later.

⁵⁵ National framework contract for medical activities for 2020 - 2022 <https://www.nhif.bg/page/2055>

⁵⁶ NOVA TV: Woman discharged from hospital with a negative PCR test for COVID-19 dies, 16.06.2020. <https://nova.bg/news/view/2020/06/16/291073/%D0%BF%D0%BE%D1%87%D0%B8%D0%BD%D0%B0-%D0%B6%D0%B5%D0%BD%D0%B0-%D0%B8%D0%B7%D0%BF%D0%B8%D1%81%D0%B0%D0%BD%D0%B0-%D0%BE%D1%82-%D0%B1%D0%BE%D0%BB%D0%BD%D0%B8%D1%86%D0%B0%D1%82%D0%B0-%D0%B2-%D1%80%D0%B0%D0%B7%D0%B3%D1%80%D0%B0%D0%B4-%D1%81-%D0%BE%D1%82%D1%80%D0%B8%D1%86%D0%B0%D1%82%D0%B5%D0%BB%D0%BD%D0%B0-%D0%BF%D1%80%D0%BE%D0%B1%D0%B0-%D0%B7%D0%B0-covid-19/>
Mediapulse, "Second female doctor dead despite being cured of COVID-19," May 3, 2020. <https://www.mediapool.bg/vtora-lekarka-e-pochinala-vapreki-che-e-bila-izlekuvana-ot-covid-19-news306905.html>
Nikola Nikolov, social media post the day after he was discharged as convalescent 24.12.2020. He died 8 January 2021 <https://www.facebook.com/podemmach/posts/3759156680789602>

4.1.2. Duplication is related to the first system defect. Duplication is the admission of the same insured person to the same or another health facility, under the same clinical pathway. The reason is that the person was not cured when first admitted to hospital.

4.1.3. Unnecessary hospital admissions - there are activities that can be carried out in specialist outpatient care, but patients are admitted under CP only to have a particular test carried out - for example a colonoscopy. This brings more costs to the NHIF than are actually needed.

4.1.4. From one CP on to the next — sometimes patients are admitted under one pathway, treated under a second, and discharged under a third clinical pathway. However, there is a lack of comprehensive treatment in the health system - for the accompanying illnesses the patient brings their own medication from home.

The referral for hospitalization notes who referred the person to the hospital: a personal doctor, the patient self-referred (through an emergency room), was sent by a specialist. A preliminary diagnosis is written on the referral, but the doctor at the hospital may admit the person via another pathway. After the end of treatment, it is possible that the discharging doctor adjusts all the tests so that they can be included in another pathway, and discharges him on a third pathway - more expensive.

4.1.5. The more expensive pathway - it often happens that patients are hospitalized under a CP for which the health facility (HF) does not have a contract, but is reported under another CP, better paid, for which the HF has a contract. This practice, in addition to harming the NHIF, distorts the picture of morbidity in the country. A variation of this abuse is the case where a patient is hospitalised who has an indication for one KP, but is reported for a KP for which the LH has a contract.

Each pathway has clear indications, a certain number of diagnostic and therapeutic procedures should be carried out, and the minimum number of days on the clinical pathway is specified. The criteria for patient discharge are also described. This is the diagnostic and treatment algorithm of a pathway. However, there are obviously, and are, numerous options for circumventing the rules.

We will focus on some abuses whose direct effect is to increase direct payments by the patient:

- The Regulation on the implementation of the right of access to medical care regulates the conditions for treatment, but it cannot describe all the details of the activities of the medical institutions. Therefore, each hospital adopts its own internal rules, which regulate the fees that the patient pays for "Additional services requested" - for example, improved living conditions and additional services without being offered ordinary conditions. **He is also made to buy the gel, pay for a view of the sea, batteries for the TV remote, etc.**
- Not all hospitals provide food to patients as stipulated in the National Framework Contract (NFC) and in the price of the CP, this requires additional payment or purchase of food. Example: a multi-profile hospital, however, which has one department - physiotherapy. The hospital has rather the functions of a hospice. The patients pay for their catering. When an inquiry was carried out following a complaint about the food, the hospital management replied that it had provided *'braziers, stoves and patients can cook for themselves, if they do not want to cook - catering'*.
- LHs provide patients for elective admission with a list of materials (CPs concerning AG specialties) that they must provide upon hospitalization. These materials are purchased with personal funds, although they are included in the cost of the CP (gauze, lignin, cotton, etc.).
- Mostly expensive drugs are prescribed to patients with the excuse that they are more purified and better for the patient, but this is not always the case.
- Payment of user fee is required for patients exempted from it, according to Annex No. 11 to the NDS for MD 2020-2022, which contains a list of diseases for which the insured persons are exempted from payment of user fee under Art. Article 37(1) of the Health Insurance Act. Including there are cases where the patient was treated on a 7-day pathway, but paid 8 days of fee.

- Patients admitted as an emergency are sometimes forced to complete a team choice declaration. They then have to pay for a choice of doctor or team, and are actually cared for by the on-call team.

Control:

- Sudden control - the control bodies of the Regional Health Insurance Fund have the right to visit medical institutions by surprise and to count patients. But they are not allowed to ask for ID documents, to check ID numbers. Hospital staff provide a list of patients who, according to documents, should be in the health facility. It is possible that the RHC officer will look for a particular patient who turns out to have been sent for an X-ray at that very moment, for example, and is not there at the moment. During such a check, the controller hears the head nurse shouting "Quick to the beds!" There are people in the beds in the rooms, but they are screwed almost head over heels. It is clear to the checker that these are medical workers, not patients, by the medical gown next to the bed, but he cannot prove abuse.
- The discharge summary should be handed to the patient on discharge, not later. If the patient does not ask for it immediately, it is possible that it will be issued with an old date, that it will contain unperformed activities and a diagnosis that does not really exist.
- The results of the control of the NHIF can be significantly improved if patients get into the habit of checking what activities are reported in their name in the system. Until recently, the login to patients' personal records was difficult to find on the NHIF website, but a banner has now been placed on the homepage of the NHIF.⁵⁷

According to the information received in the course of the analysis, after the beginning of the crisis some private hospitals have opened a number of wards without the necessary equipment and specialists. One such hospital is known to exist in Varna, where the Covid ward is staffed by three doctors without specialties and one obstetrician. A second door has been cut so that coronavirus patients do not

⁵⁷ NHIS, Personalized Information System - IPR <https://pis.nhif.bg/main/>

enter through the central door. A check of the data provided to us by the NHIF shows that the hospital was paid for the treatment of 52 coronavirus patients.

A major problem in the current situation is the observed abdication by some GPs and HCCs in general, who will only start to join the fight against the virus towards the end of 2020. In fact, hospitals would be greatly relieved if control and follow-up of the sick were carried out intensively beforehand and only as a last resort to hospital.

4.2. Prices

The treatment of COVID-19 is associated with costs of clinical pathways, tests to diagnose those infected, additional remuneration for frontline work, exceptional payments to hospitals, GPs, etc. In this section we will look at the costs of the main activities associated with containing the pandemic. It should also be noted here that, according to doctors and lawyers involved in medical law, the adoption of a health protocol for the treatment of coronavirus⁵⁸ is being delayed in Bulgaria. It cannot be static; in other countries, health protocols are also changing. Different doctors and hospitals apply different approaches, which makes it difficult to determine the resources needed for treatment on the clinical pathway.

4.2.1. Clinical pathways under the National Framework Contract - the clinical pathway number for the treatment of COVID-19 is **104**. Its cost until 14 August 2020 was BGN 618. After the change of the National Framework Contract between the NHIF and the BMA, it increases to BGN 1,200. Subsequently, the prices of **CP 39 and 48** were also increased, aligning them with CP 104. They are for treatment and diagnosis of bronchopneumonia under and over 18 years. From 1 January 2021, the price of the additional clinical pathways has been reduced to BGN 766.70 and BGN 1050.50 respectively.

According to the information requested and received from the NHIF under the RTI Act, 56 511 coronavirus patients were treated in hospitals in the country from 1 March 2020 to 31 December 2020. Clinical pathways have cost the State Treasury BGN 65.3 million. By 17 January 2021, the total number of cases is almost 5 000 more. In addition, clinical pathways

⁵⁸ How is COVID-19 treated? Each hospital with its own protocol, Capital newspaper
https://www.capital.bg/politika_i_ikonomika/covid/2021/02/18/4176112_kak_se_lekuva_covid-19_uroci_ot_purvite_vulni_chast_3/

with an accompanying, but not main, code for COVID-19 have been reported - another 1,276 cases. The ⁵⁹ total amount paid for pathways up to 17 January 2021 is **BGN 72.3 million**.

Surprisingly, for the mentioned period, the first place in the number of cases was not occupied by N.I. Pirogov, but the University Hospital "St. Marina" Varna with 2210 cases. UMHALSM Pirogov is in second place with a hundred patients less, and MMA is only in 12th place. One place ahead of the MMA is the Ivan Skenderov Hospital in Gotse Delchev, where the only anaesthesiologist died of coronavirus. The workload in the region, including at the hospital in Blagoevgrad, is understandable - there has been a boom in infected and deceased.

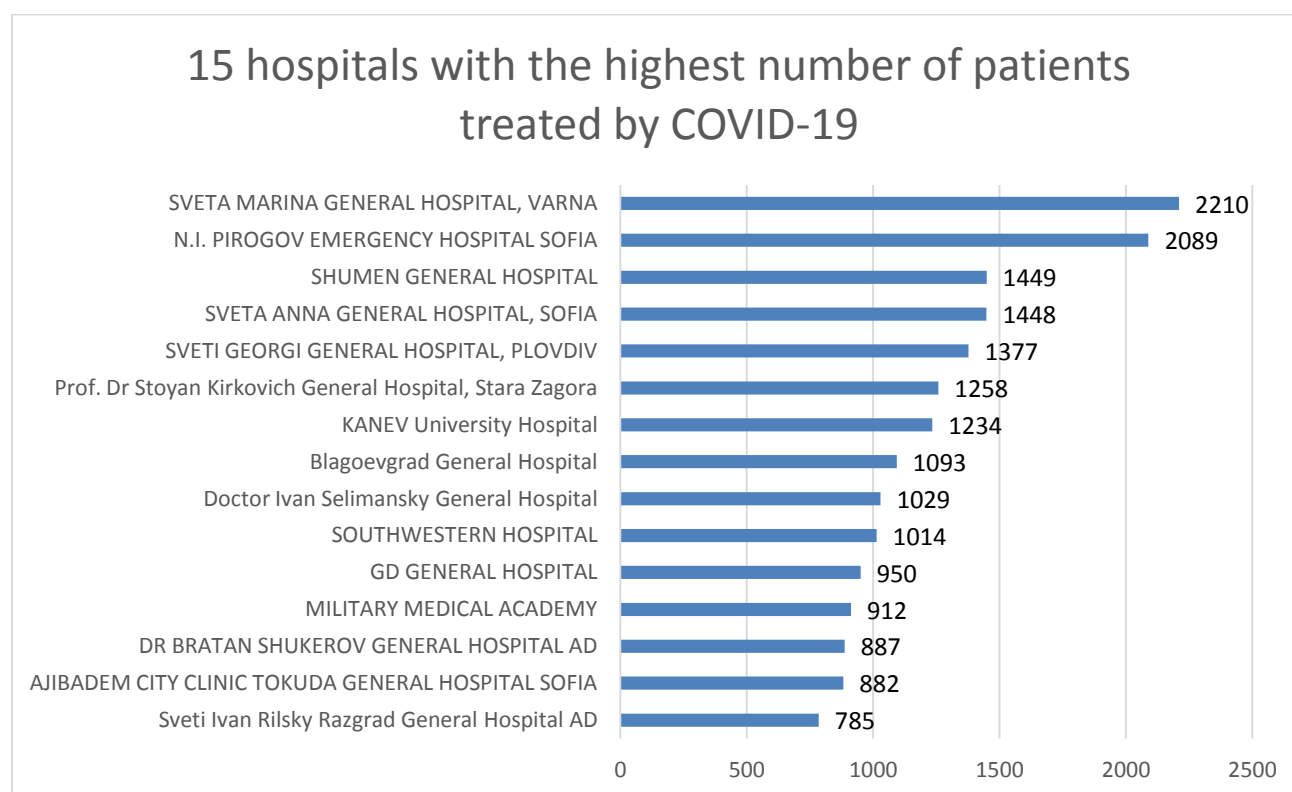


Table 4Hospitals with the highest number of patients treated for COVID-19

For severe cases requiring intensive care and mechanical ventilation and/or parenteral nutrition, **clinical procedure 3** is also applied. It is paid per 24 hours of treatment. There are

⁵⁹ Information from the NHIF to the Ad Hoc Committee of the National Assembly
<https://www.parliament.bg/pub/cW/20210122105933%D0%9D%D0%97%D0%9E%D0%9A%20-%20%D0%B4%D0%BE%D0%BA%D0%BB%D0%B0%D0%B4%20-%2020%2001%202021.PDF>

two variations, the price of one is BGN 426 and the price of the other is BGN 720 for 2020⁶⁰ CPR 3 shall be paid for no more than 30% of the total number of cases reported under CPR 3 by the respective hospital care facility performing that CPR in 2019, but no more than the number of cases reported monthly in 2019, within the monthly allocation in 2020.

In 2021, clinical procedure 3 is merged and costs 426 BGN, with an annual bonus of 294 BGN for up to 30% of the total number of cases reported for the respective hospital in 2020⁶¹ CPR No. 4 is also paid per day. The following table is based on data from the NHIS to the SC which reflects the implementation of clinical procedures until 17 January 2021:

Clinical procedure	par. LZBP	number of cases	Amount BGN	Average price
CP 3	70	25,748	10,968,435	426
CP 4	67	8,507	1,318,585	155
Other CPs with accompanying code for COVID-19	2	14	5,105	365

Table 5 Number of patients and amounts for the treatment of COVID-19 patients by clinical procedure

The third column states that data on number of cases are included, but the number is too large to indicate the number of patients who had to have mechanical ventilation, so we assume it indicates the number of days. Our calculated average cost of CPR 4 is exactly BGN155, which is the cost of the procedure under the NDA. At first glance, there is no explanation for the average cost of CPR 3 – BGN 426, which is the cost of the lighter option, so it would be normal for the average cost of the procedures already paid for to be between BGN 426 and BGN 720. It sounds impossible that throughout the past year there have not been severe cases in which mechanical ventilation and parenteral nutrition have had to be applied, which would increase, even if only slightly, the average cost of CPR 3.

4.2.2. PCR tests

⁶⁰ NDA for medical activities 2020-2022, art. 339

⁶¹ CONTRACT No. RD-NS-01-4-7 of 30.12.2020 on amendment and supplement to the National Framework Contract for Medical Activities between the National Health Insurance Fund and the Bulgarian Medical Association for 2020 - 2022 (promulgated in SG No. 7 of 2020; amended, issue 16 of 2020; amended and supplemented, issues 18, 36, 40, 77, 101 and 105 of 2020), p. 25

- Decision 249 of the MC dated 10 April 2020 approved the purchase of 300 PCR test kits (100 tests each) or 30 000 tests at a cost of \$303,000, contract with OSANG Healthcare Co., Ltd - Republic of Korea. The unit cost is \$10.10 or **16.50 BGN**. Transport, duties, taxes and charges are not included in this price.

- RMS No. 291 dated 30 April 2020 approved the purchase of 6 Exiprep 16 Dx automatic extraction machines, 320 ExiPrep Dx viral DNA/RNA extraction kits (each containing 96 tests) and 6 for installation and technical support totalling \$310,320. The price is a lump sum and a breakdown is not available.

- RMS No. 454, dated July 3, 2020, approved the purchase of an additional 420 kits (each including 100 tests), or 42 000 tests at a cost of \$340 500, including transportation costs of \$4,500. It is not clear whether additional costs for customs duties and taxes were due and paid. The unit cost including transport is now \$8.11 or **BGN 13.30**. The funds were provided by the project BG16RFOP001-4.003-0001 Fighting COVID-19, financed under the Operational Programme Regions in Growth 2014-2020.⁶²

These are just some of the orders and contracts that have been signed. A summary of public expenditure on PCR is provided in an explanatory note by the Ministry of Health as at 30.09.2020.⁶³ The total number of PCR tests purchased at that date was 611 059. The funds for the majority of these are from the Bulgarian budget, but no price is indicated. The average cost of purchasing PCR tests under European projects is BGN 13. In addition, transport costs, duties and taxes are paid. These tests are made available to the RHI, the NCIPB, medical institutions and licensed laboratories. At the same time, the Council of Ministers has set a fee of BGN 130 for polymerase chain reaction (PCR) testing to prove COVID-19 when it is carried out by the National Centre for Infectious and Parasitic Diseases or regional health inspectorates.⁶⁴

⁶² <https://www.mh.government.bg/bg/novini/ministerski-savet/ministerstvoto-na-zdraveopazvaneto-she-zakupi-oshe/>

⁶³

https://mh.government.bg/media/filer_public/2020/11/05/obiasnitelna_zapiska_covid_19_prb_mz_3009_1310doc_PG_EqaV2.pdf

⁶⁴ Decree No. 311 of 20 November 2020 amending and supplementing the Tariff for the fees to be collected by the state health control authorities and the national centres for public health problems under the Health Act, adopted by Decree No. 242 of the Council of Ministers of 2007.

https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?jsessionid=BB8A8E24F6C774AA4B02497E5724DE46?idMat=153925&fbclid=IwAR3ApBuTd_IIAeDE_wZecjGG1k0Jwsl_c83F61UdKqdagCQWT4BqnLhJLVc

"Market environment" — the price of a PCR test in the first months of the pandemic was between BGN 90 and BGN 120, with rapid tests reaching 190 BGN.⁶⁵ Realistically, by March 2021, there were laboratories in the capital at whose headquarters and at no extra cost the result can be ready in 4-6 hours, but this is not guaranteed in the offer because it depends on the workload. In general, however, especially for samples taken in the countryside, the procedure lasts well over 36 hours.

The mark-up of the labs is significant, the difference between the cost of the test and the final cost to the patient is almost 9 times or 900%. Even if we accept as credible what a private laboratory owner told a Bulgarian media outlet that the test costs 16-17 BGN ⁶⁶, the mark-up is still too high - about 7 times the price.

The public explanation is that the equipment needed to process the samples is very expensive. The Ministry of Health's explanatory note shows that the Ministry bought similar equipment for the hospital in Gabrovo and the cost was BGN 78 000. If only 10 000 tests were processed with this equipment, the cost per test would be BGN 7.8. Adding the costs of labour, electricity, destruction of biological material, etc., it is difficult for the cost to exceed BGN 35-40. In large private laboratories with queues of several dozen people at a time, this equipment can be paid for in 2-3 weeks or less.

This is probably the reason why the NHIF manager publicly states that the price the NHIF pays for a test is too high. It is *'negotiated, not real'*.⁶⁷ In the same interview, Mr Salchev says that the price is agreed between the cash office and the Bulgarian Doctors' Union. And that is exactly right - an amendment to the NDA made on 28 April 2020 included Article 176, where the price for a PCR test is stated as 60 BGN. Even the representative of the private laboratory, whom we quoted above, stated in an interview that the real price was BGN 65-66.

Cost of the government's refusal to cap the price of PRC tests to citizens

⁶⁵ BTV, The PCR test - increasingly the gateway to different services, but at what cost, 24.09.2020

<https://btvnovinite.bg/bulgaria/pcr-testat-vse-po-chesto-vhod-kam-razlichni-uslugi-no-na-kakva-cena.html>

⁶⁶ <https://www.svobodnaevropa.bg/a/30903148.html>

⁶⁷ NHIS chief gives important info on e-referrals for PCR test <https://novini.bg/zdrave/nzok/629629>

The report sent by the NHIF to the National Assembly shows that for the period April-December 2020 the NHIF paid for a total of 111 193 PCR tests. The government's Open Data Portal publishes daily information on the number of tests performed by type.⁶⁸ As of 31 December 2020, the number of PCR tests registered in the country was 1 133 846. That is, citizens have paid for more than 90% of the diagnostic activities carried out to detect the presence of infection in them and their relatives.

By the end of 2020, the number of PCR tests paid for in full by citizens is 1 022 653. We assume that the average price is 120 BGN as the price decrease to around 100 BGN only happened towards the end of the year. Thus, the total amount covered by household budgets for this period (not including NHIF funds, which are again public) is just over BGN 122.7 million. To give an idea of what BGN 122.7 million is, what citizens have paid out of their own pockets, and in a severe health and economic crisis, we will illustrate with a few examples:

- BGN 119 million is the transfer from the state budget to the municipality of Burgas for the past year - the fourth largest municipality in Bulgaria;
- In 2020, the NHIF paid BGN 16.7 million for the treatment of sick children in Bulgaria and abroad. (only 2 million for treatment abroad)⁶⁹, which is 13% of the amount paid by citizens for tests;
- Only BGN 65 million - almost half of the cost covered by households for testing – was made available for clinical pathways for the treatment of COVID-19.

More than half of these funds are mark-ups that private labs have added to the cost of tests as no price cap on PCR tests was ever imposed. We note that this does not include the so-called rapid tests that were used as a more affordable, albeit less accurate, alternative to PCR.

Conclusions:

⁶⁸ Open Data Portal, Distribution by test type https://data.egov.bg/data/resourceView/0ce4e9c3-5dfc-46e2-b4ab-42d840caab92?fbclid=IwAR3Eq7bVIPukrNHcuqQ3-ATSdTFO_GnCa2H_40dhllEbjkpiNRjYp4l6Faw&page=9

⁶⁹ Report on the activity carried out under Ordinance No. 2 of 27 March 2019 on the medical and other services under Article 82, paragraphs 1a and 3 of the Health Act and on the procedure and conditions for their approval, use and payment, for the approval, use and payment of services under the Ordinance by persons up to 18 years of age, for the period 01.01.2020 - 31.12.2020 <https://www.nhif.bg/page/1794>

- The rulers did not impose a ceiling on the price of PCR tests, which alone can confirm or reject the disease.
- Patients were forced to pay for tests to be admitted to hospital. According to the information requested and received under the RTI Act from the Executive Agency "Medical Supervision", checks for such violations have been carried out and punitive decrees have been issued only to the Nadezhda Hospital.
- Often workers refused to be tested at all. Firstly, because it means that if the infection is detected, they have to stop working, and so lose the extra pay, which often reaches 50 % of the basic salary. Second, because the high cost of the test is a barrier to a huge proportion of the population.
- Large private laboratories make significant profits (over BGN 60 million from PCR tests alone) in a pandemic due to the lack of an upper price threshold.
- Some of the tests purchased by the Ministry of Health in the initial period of the crisis, just when production was difficult worldwide and a stable supply chain had not yet been established, were also provided to private laboratories.

In the context of the conclusions drawn, it can be argued that there has been a drain on the state budget and household budgets thanks to the crisis, the action and inaction of the Bulgarian rulers, it has happened and continues to happen through the key procedure for detecting the presence of the virus in the human body - the PCR test. And the deep reason for this is the long-standing withdrawal of the state from basic activities such as health care, prevention and monitoring of morbidity, which has bled public health care both in terms of personnel and in terms of equipment and building stock. Difficult access to testing is also at the root of the widespread spread of COVID-19 in the country, which has had human, social and economic costs.

4.3. Payment of 85 % of the basic value determined on the basis of the value reported in January 2020 by agreement between the NHIF and the Bulgarian Medical Association, on 6 April 2020, a Methodology for Determining the Amounts Paid by the NHIF to Contractors of Medical Care, Dental Care and Medical Diagnostic Activities for Work under Adverse

Conditions in the Event of a Declared Epidemic Situation is being developed. Under this methodology, the NHIF pays all medical establishments that have a contract with the NHIF the difference between the amounts for the activities carried out and 85% of the 2020 baseline. These supplementary payments apply to practically all medical establishments, performers of diagnostic activities, dentists and medical specialists who have contracts with the NHIF. The reason is the strong limitation of medical activities outside those involved in controlling the pandemic, which does not allow them to fulfil the agreements with the Treasury.

This is very important for some of the specialists and medical institutions because otherwise they will not be able to pay the salaries of their employees. For others, however, it is an unexpected gift. **In the course of preparing the analysis and gathering information through in-depth interviews, it was shared with us that there have been cases where a dentist lived on the beach in Greece for several months to isolate himself, while here he was paid 85% of the agreed amounts.**

By the end of the previous year, 278 million BGN had been paid under this methodology. 206 million BGN were paid to compensate for 85% of the activities that could not be carried out due to the restrictions. Medical specialists from only 7 districts have received 85% of the base value for January 2020, the remaining 21 districts have actually been paid more money, with Sofia city in first place.

4.4. BGN 1 000 for frontline staff - it was announced in early April 2020 that additional payments of BGN 1,000 net would be made to medical staff. The funds are from the project BG05M90P001-1.099-0001 Support for frontline workers in the health care system in conditions of threat to public health from COVID-19 under the Operational Programme "Human Resources Development" 2014-2020, co-financed by the European Union through the European Social Fund.

BGN 59.5 million were contracted for additional remuneration and BGN 0.5 million for personal protective equipment for medical and non-medical staff in hospitals, CMHCs, NCIPD, RHI, etc. The amount for additional remuneration was fully used, BGN 382 million

were overpaid. However, the funds used for personal protective equipment amounted to only BGN 121 million.⁷⁰⁷¹

The cost to the employer of a net salary of BGN 1,000 is BGN 1 532.50. Health mediators also received additional pay, but the gross amount was only BGN 610. According to the information sent by the Minister of Health to the National Assembly's Ad Hoc Committee, salaries were paid to employees of the Regional Health Inspectorate, hospitals, the National Centre for Infectious and Parasitic Diseases, employees of hospitals, laboratories, health mediators and those involved in border control (Annex 1). The allocation under project BG05M90P001-1.099-0001 was already exhausted in August when project BG05M90P001-6.001-0001-C03 with a budget of BGN 180 million was launched. However, there are other activities, not only the salaries of medical and non-medical staff, so it is not possible to say how much of these funds were used to pay the staff.

We could not find any written and accepted criteria for the payment of the additional remuneration, although the Minister of Health at the time (Mr. Ananiev) in his reply to MPs claimed that there were *"clear objectively measurable criteria" that guaranteed "fairness and predictability"*.⁷² The announcement of the project on the Ministry of Health's website states only that the funds will be directed to medical and non-medical staff at all levels: administrative structures, health facilities, emergency and hospital care. A communication from the Ministry of Health dated 3 April 2020 states that, according to the mechanism adopted, the maximum number of employees who can receive this additional payment is defined as follows:⁷³

- for up to 5 hospitalized patients, the maximum number of medical and non-medical staff is 40;

⁷⁰ Ministry of Health, BG05M90P001-1.099-0001 "Supporting health workers in the face of a public health threat from COVID-19" <https://www.mh.government.bg/bg/evropeyski-programi/tekushti-programi-i-proekti/operativna-programa-razvitie-na-choveshkite-resursi-2014-2020-g/proekt-bg05m90p001-1099-0001-podkrepa-na-raboteshi-v-sistemata-n/?edit&language=bg>

⁷¹ Decision No. 637 of 2020 on giving consent to the Managing Authority of HRD OP to conclude an annex to administrative contract BG05M90P001-1.099-0001

⁷² Response of the Minister of Health Kiril Ananiev to a question by Mr. Georgi Svilensky, n. p. Hristo Prodanov and Mr. Georgi Yordanov, 22 May 2020 <https://www.mh.government.bg/bg/novini/parlamentaren-kontrol/otgovor-na-ministra-na-zdraveopazvaneto-22-05-2/>

⁷³ <https://www.mh.government.bg/bg/evropeyski-programi/tekushti-programi-i-proekti/operativna-programa-razvitie-na-choveshkite-resursi-2014-2020-g/proekt-bg05m90p001-1099-0001-podkrepa-na-raboteshi-v-sistemata-n/>

- 6 to 10 patients - 70 staff;
- more than 10 patients - maximum 100 staff.⁷⁴

As part of the study, anonymous interviews were conducted with nurses from a large metropolitan hospital and a medical person from an emergency centre in another large city. Since the interviewed employees of medical institutions gave different testimonies, it seems that the remaining criteria used to determine who should receive the additional remuneration were determined by the directors of the medical institutions. In some, it was a requirement that the employee had worked the norm of hours for that month; in other health facilities, only a few on-call hours were required. According to the information requested and received under the Access to Public Information Act from the Alexandrovska University Hospital, the hospital's executive director has approved a methodology for allocating funds for front-line work. It cites a contract concluded between the hospital and the Ministry of Health, which sets the maximum number of staff who may receive the allowances in question (within the limits mentioned in the preceding paragraph). It is stipulated that the decision to grant additional remuneration is taken by a special committee. A minimum of at least 50% of the days worked for staff outside the co-ed wards is set.

The lack of uniform criteria and the subjective element on the ground has been the cause of much dissatisfaction on the part of medical professionals. For example, those working in an emergency unit stated that BGN 1,000 was paid to administrative staff who had never previously given on-call duties, but because of these remunerations administrative representatives were listed in the schedule with 1-2 on-call duties, while other staff did not receive any. Nurses from the emergency department of a large metropolitan hospital claim that they received the supplement once in the entire past year and were "asked" by the head nurse to return half of the amount. This was standard practice throughout the hospital. As early as the beginning of May, workers in a Burgas hospital announced that they would protest because they had not been paid their supplementary wages. The hospital announced that it had received funds for 70 people - distributed to 30 employees

⁷⁴ 1,700 employees in 34 medical institutions will receive an additional remuneration of BGN 1,000 for the month of March <https://www.mh.government.bg/bg/novini/aktualno/1700-sluzhiteli-v-34-lechebni-zavedeniya-she-poluc/>

from the infectious diseases ward and 40 from the emergency room. However, 13 medical specialists from the emergency room were left without a supplement, so at the request of the doctors, who were paid BGN 1,000 each, they divided the funds with those deprived of a supplement.⁷⁵

The problem is the chaotic and non-transparent decision-making, which is not necessarily unfair. And at the moment it is difficult to find a methodology that regulates the way the project funds are allocated to the hospital and the specific criteria that determine which employee will receive the additional remuneration under the operational programme. This **creates the possibility for directors to allocate funds in a way that does not reflect the actual workload of staff**. In the course of collecting initial data for the purpose of this study, BIPI asked questions, including about the number and resources paid to frontline staff. under the APIA to 4 hospitals – Alexandrovska University Hospital, from where we received full access to the requested information; the N.I. Pirogov Emergency Hospital from which we received a tacit refusal; the Prof. Dr. Stoyan Kirkovich General Hospital in Stara Zagora, from which we received a refusal; and the Pazardzhik General Hospital, from where we received a partial refusal.

Since the beginning of 2021, this additional remuneration has been assumed by the Treasury and the requirements are written into the Methodology for Determining the Amounts Paid by the NHIF to Medical Care, Dental Care and Medical-Diagnostic Contractors for Work in Adverse Conditions on the Occasion of a Declared Epidemic Situation. This has been done under the PM No 59 of 18 February 2021, which also made a transfer of BGN 85 million to the NHIF. The maximum number of staff is now set as follows:

- up to 5 hospitalized patients - up to 40 staff;
- 6 to 10 hospitalized patients - up to 70 staff;
- 11 to 50 hospitalized patients - up to 100 staff;
- 51 to 200 hospitalized patients - up to 200 staff;
- more than 200 hospitalized patients - up to 400 staff.

⁷⁵ Doctors prepare protest over criteria for distribution of promised 1 000 BGN <https://www.bgonair.bg/a/2-bulgaria/192390-meditsi-gotvyat-protest-zaradi-kriteriite-za-razpredelenie-na-obeshtanite-1-000-lv>

This methodology also sets an additional fee for the administration of one dose of vaccine - BGN 10. For two-dose vaccines, which are all currently available, this will cost BGN 20 per person for two doses.

In the meantime, the NHIF also adopts the Rules on the conditions and procedure for payment of additional wages to medical staff for the period of a declared epidemic emergency due to the epidemic spread of a communicable disease. These amounts are gross, and it is further stressed that they cannot be the basis for the accrual of additional remuneration (e.g. percentage of seniority). The regulations govern the following payments for:

- ✓ a doctor with a gross salary of less than BGN 5000 per month - BGN 600;
- ✓ health care specialist – BGN 360;
- ✓ an orderly – BGN 120.

The government said that these payments will be valid until the end of 2021. However, they are essentially valid under an epidemic emergency.

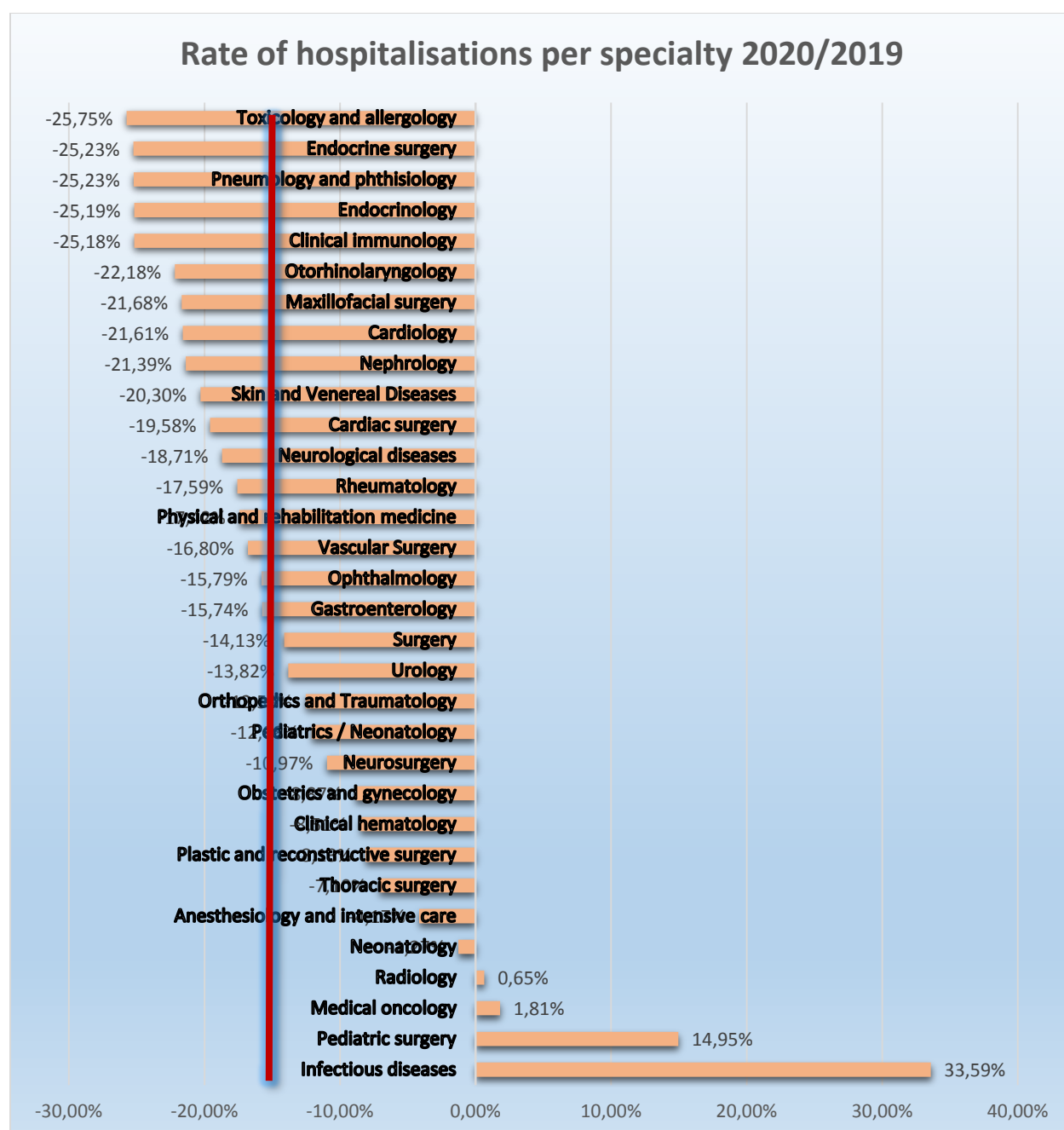
The main problem, however, remains the traditionally low payment of health professionals. There are still medical institutions where the levels set in the 2018 collective agreement have not been met. This is why hospitals periodically have to look for volunteers for whom pay is not a matter of survival.

4.5. Analysis of clinical pathways paid in 2020.

In the course of preparing this analysis, information was provided to us by the NHS and the MoH under the FOIA on the costs incurred in relation to addressing the coronavirus health crisis. These show a reduction in the number of hospitalisations on clinical pathways in 2020 compared to 2019 of only around 15 %. If examined by RHIC in the country, Vidin reports the most significant reduction in CP at minus 34 %. In the top five with about 23% down are Razgrad, Sliven, Smolyan and Pernik. At the same time, the significantly lower reduction of used CPs in Ruse (-4.9 %) and Vratsa (-7.5 %) is remarkable. In the crisis Vidin was left without specialists, most of them died of

coronavirus. For Ruse and Vratsa, however, the explanation is not so visible, and the difference with the rest of the country is not small.

Analysis by specialty also highlights some activities. While the overall decrease was -15 %, thoracic surgery only saw a -7.1 % decrease in hospitalized patients. Plastic, reconstructive and aesthetic surgery is also in this group with -8.13 %.



In this regard, we looked at the 2020/2019 amendment rates for medical facilities. One of the hospitals in the country has seen a significant increase in the number of patients cared for under clinical pathway P236 "Operative treatment of the consequences of burn and trauma to the skin and subcutaneous tissue". This is Panagyurishte University Hospital Ltd, where the increase in patients on the pathway is from 93 in 2019 to 164 in 2020. The other hospital that stands out is Hospital Medica Ruse Ltd. Here, patients under KP P233 have increased by 40%, but this is apparently standard activity there, as the number of patients is still 378 in 2019.

The number of patients per facility in the top 15 is as follows:

List of BMP LHs reporting KP activity in 2019 and 2020.		Number of hospitalizations 2019	Number of hospital admissions 2020	Increase/decrease in the number of hospitalizations 2020/2019 in %	Note
1	2	3	4	5	
0290221001	MBPLR "Vita" EOOD, Pomorie branch	44	307	597.73%	works from the end of 2019.
0803232016	MEDICA ALBENA LTD	352	1,045	196.88%	
0290211001	Heart and Brain Hospital EAD	771	1,911	147.86%	works from July 2019
2201212059	Hospital "Dr. Malinov" Ltd.	65	110	69.23%	assisted reproduction
2201212095	SABLE "PENTAGRAM" LTD	314	424	35.03%	eye clinic
1524211020	Heart and Brain Hospital EAD	4,842	5,776	19.29%	
04043330	CDVZ - Veliko Tarnovo EOOD	542	635	17.16%	

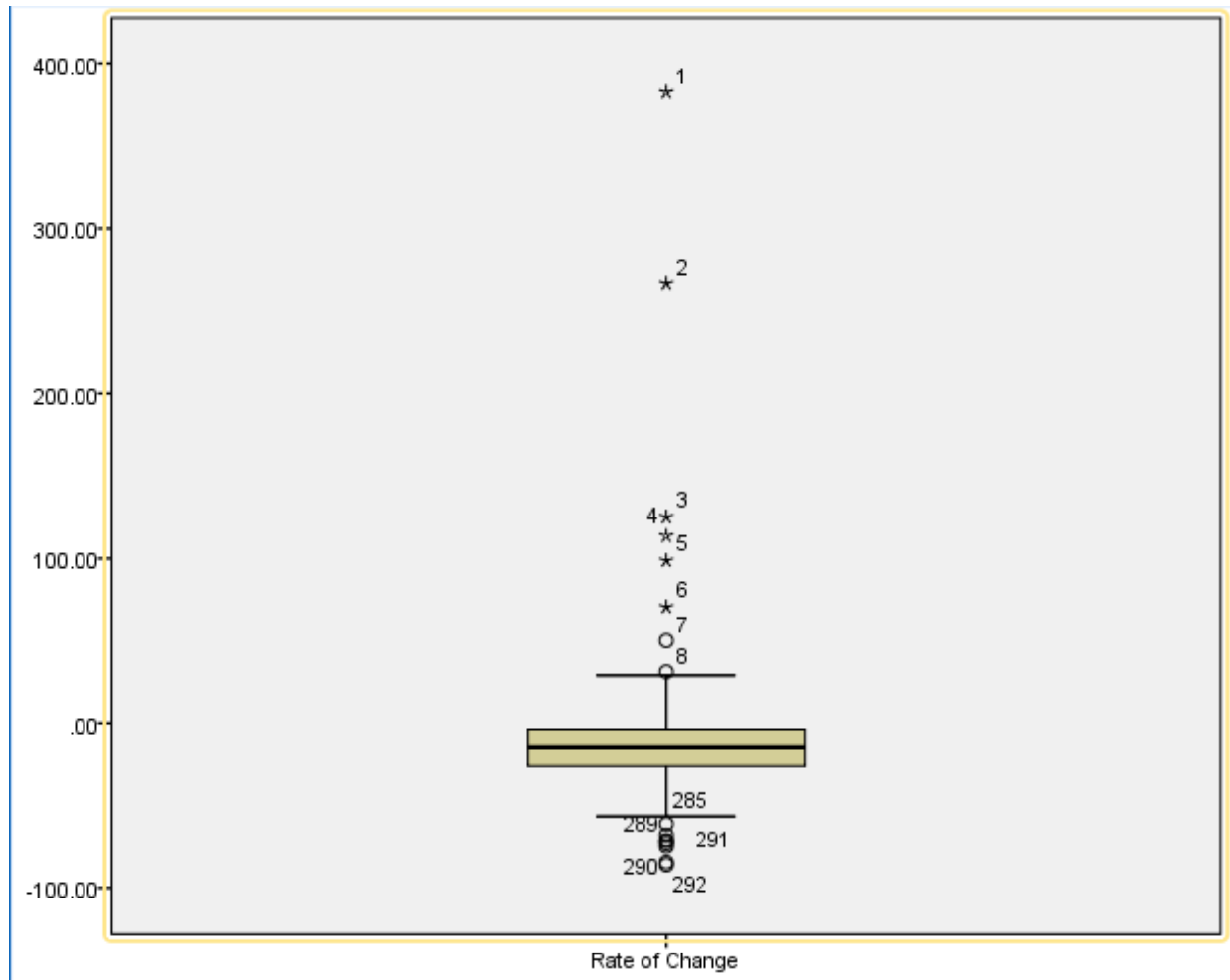
10					
15242110					
18	St. Paraskeva Hospital Ltd.	317	360	13.56%	
13202110	"Hospital-Uni Hospital" Ltd.				
02	Panagyurishte	14,898	16,849	13.10%	
22012121					
03	SBALD LHC MEDICRON LTD	151	169	11.92%	
06102110					
19	First Private Hospital Vratsa Ltd.	6,412	7,147	11.46%	
16262110	Hospital "Parkhospital" Ltd				
48	Plovdiv	3,624	4,030	11.20%	
18272110					
19	"MBAL MEDICA RUSE" LTD	17,728	19,668	10.94%	
06103330					
09	CDVZ Vratsa EOOD	313	345	10.22%	
28262110					
08	St. St. John of Rila Ltd. Yambol	2,379	2,597	9.16%	

Table 6 Number of hospital admissions in 2019/2020

The hospitals coloured in red are one of the few that have seen an increase in the number of patients hospitalized on clinical pathways, for which no logical reason can be seen at first glance, while the national average decline is -15%. Since the first place is the Medica Albena Ltd Specialist Rehabilitation Hospital, it should be clarified that SBR are specialized rehabilitation hospitals that also work with the NHIF. This particular hospital is owned by Albena AD. Obviously, despite the decrease in the number of hospitalizations, as well as the crisis that has most significantly affected tourism and the hotel industry, for this hospital the crisis year has been more successful than the previous year 2019.

A review of the data by clinical pathway highlights both pathways that would logically have been more used given the presence of a virus that spreads respiratory, affecting the lungs, heart and brain, and those for which it is difficult to find an explanation from the available information alone. From the data obtained from the NHIS, we made a box-plot of the

percentage change in the number of cases per clinical pathway, excluding cases where there were few hospitalizations recorded within the year. The chart shows several outliers, which indicate the clinical pathways where a high number of hospitalizations were recorded.



Hospitalizations under 6 pathways represent extreme outliers from the database and are therefore marked with an asterix. The next two are visualized with a circle, they are also outliers but smaller. In the following table we show the ten pathways with the highest growth (with a reported decline nation-wide):

KP No.	Name of the CP	Number of cases 2020	Number of cases 2019	Analysis - 2020/2019 growth
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P104	Diagnosis and treatment of contagious viral and bacterial diseases - acute, with complications	30,291	6,278	382.49%
P241.6	Diagnostic procedures for staging and assessment of therapeutic response in patients with malignant solid tumours and hematologic diseases with MRI in persons under 18 years of age	11	3	266.67%
P159	Arthroscopic procedures in the musculoskeletal system	5,069	2,254	124.89%
P169	Intensive treatment of intra- and postpartum complications leading to shock	346	162	113.58%
P206.2	Craniotomies not induced by trauma, using modern technologies (neuronavigational)	477	240	98.75%
P257	Physical therapy, rehabilitation and specialist care for persistent/chronic/vegetative conditions	218	128	70.31%
P241.4	Diagnostic procedures for staging and assessment of therapeutic response in patients with malignant solid tumours and haematological diseases with CT scan of at least two areas or bone marrow examination with ICD code 41.31 (30081-00, 30087-00) in persons under 18 years of age	36	24	50.00%
P035	Diagnosis and treatment of hypoxemic conditions in congenital cardiac malformations in childhood	21	16	31.25%
P252.1	Radiosurgery of oncological and non-oncological diseases	989	766	29.11%
P047	Treatment of decompensated chronic respiratory failure in diseases of the respiratory	189	147	28.57%

system with mechanical ventilation			
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Table 7rate of reported clinical pathways 2019/2020

The situation with CP P159 - **Arthroscopic Musculoskeletal Procedures** is interesting **and does** not seem to have anything to do with the effects of the coronavirus, at least at this stage. However, the number of patients who have been admitted under this pathway has seen an increase of 125%. Under the RHIF, an increase in KP 159 was reported:

- Sofia City Regional Health Insurance Fund - 2 365 cases in 2020 vs 950 in 2019, an increase of 1 415 cases, or 149%;
- RHC Plovdiv - 870 hospitalizations in 2020 compared to 112 in the previous year, an increase of 758 cases or 677%;
- RHC Varna - 740 cases in 2020, while in 2019 336 cases were paid, which is an increase of 404 cases or 120%;
- RHC Burgas - 277 hospitalizations in 2020 compared to 29 in 2019, an increase of 855%, or 248 hospitalizations.

While for some of the district health insurance funds the increase is due to contracting with contractors for the relevant medical service, it is unexplained for the country as a whole. In previous years, hospitalizations under this CP have had a minimal average variance compared to 2019. Therefore, it should be the case that when a new contract is signed with a contractor for a service, a decrease should be accounted for those with current contracts. There is no apparent reason why those in need of such medical care should have skyrocketed.

In conclusion, the review of health care expenditure⁷⁶ shows that health insurance payments for medical and dental care in the first three months of 2020 are on average higher than in the following months until the end of the year. Monthly expenditure for the first quarter is higher by BGN 32.5 million. From the published data, it is not evident that

⁷⁶ Report on measures adopted by the NHIF in 2020, sent to the Ad Hoc Committee for the Control of Expenditure of Public Funds Related to the Consequences of the Spread of Covid-19 of the National Assembly
<https://www.parliament.bg/bg/parliamentarycommittees/members/2813/documents>

any extraordinary expenditures were made on standard activities of medical institutions outside the treatment of COVID-19. Which could mean that:

- Even with the 85% contingency for non-performed activities and the intentional payments for medical specialists, the actual amounts paid in the crisis were lower than usual because hospitals stopped elective operations and citizens were embarrassed to visit doctors. And as a consequence, Bulgarian citizens are now sicker than before;
- or that the standard functioning of the health system allows more funds to be used when there is no limitation on activities such as the one imposed after the first quarter. That is, citizens are not sicker now, and with the suspension of standard operation of health facilities, the usual outflow of funds is limited.