PRIVATE HEALTHCARE IN BULGARIA - HISTORY, ISSUES and PERSPECTIVES

EXECUTIVE SUMMARY

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BULGARIAN INSTITUTE FOR LEGAL INITIATIVES

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The research covers the main processes in the dynamically developing private healthcare sector in Bulgaria. The history of private health care in the country after the collapse of the totalitarian socialist regime in 1989, the philosophy and ethics its creation has been based on, as well as its interaction and conflicts with public health care have been presented. At the same time, the analysis also presents an up-to-date quantitative picture of private healthcare in Bulgaria for the 2013-2023 period – the number of private hospitals over the years, their geographical distribution, financing and preferred clinical pathways, among others. Moreover, the research focuses on some of the most demanding issues of health care in Bulgaria in general, such as: staffing of hospitals, the on-going competition between public and private medical facilities, the overconcentration of medical care in some parts of the country and its lack in others. Other important topics have not been overlooked: the ownership of private medical facilities and the continued lack of obligation for them to conduct public procurement when working with public funds, to name a few.

For the purposes of the research, a wide range of tools was used to collect and evaluate information: expert surveys, statistical and media analysis, interviews with experts from practice. Mainly publicly available sources of an institutional nature were used, as well as data provided in accordance with the Law on Access to Public Information (PAI) by the National Health Insurance Fund (NHIF).

PART ONE

1. HEALTHCARE REFORM OVER THE YEARS IN RELATION TO HOSPITAL HEALTH CARE

A non-biased hindsight shows socialist health care, although with the aura of being completely free and universally accessible, was at the limit of its functionality, with insufficient human and capital resources. The healthcare system itself, like the system of the entire state administration of that period, was bureaucratized, ideological and rigid. All this made hospital healthcare in the totalitarian socialist People's Republic of Bulgaria neither effective nor efficient. It was even less fair as citizens did not have equal access to health care. The development of the hospital network until 1990 was based on quantitative indicators, without taking into consideration the real needs of the population and demographic processes.

The momentum in the sector from the socialist period was preserved in the first half of the 1990s, with more serious changes beginning only after 1997. For the 1997-2001 period, 5 structural and 7 functional acts on the healthcare system were adopted, where the Health Insurance Act (HIA), the Medical Institutions Act (MIA) and the Act on Professional Organizations of Doctors and Dentists have been fundamental to the reform.

The Health Insurance Act adopted in 1998 brought back the mandatory health insurance in Bulgaria (abolished in the period after 1944). In 1999, a state body was established – the National Health Insurance Fund (NHIF), a legal monopolist, operating the funds related to public health insurance. The MIA (adopted only in 1999) achieved market autonomy for medical facilities for the first time. This is a fundamental change in the healthcare system. For the first time, medical facilities for outpatient and inpatient care acquired the status of legal entities (before these amendments, all medical facilities in the country were divisions or (sub)branches of the Ministry of Health (MOH), directly subordinated to the Ministry or indirectly – through its regional structures).

In 1999, a decision was made to amend the legal status of medical institutions – and start using the order of the already existing Commercial Act. It regulates concurrently the establishment, form, management, structure, subordination, functions and closure of medical facilities. In practice, the centralized administrative-hierarchical way of managing medical institutions (as it had led to their decapitalization and inefficient functioning) was abolished. The de-monopolization of the health care system was carried out with the transformation of the ownership regime. By 1998, i. e. at the beginning of the reforms, the vast majority of healthcare continued to be state-owned, while the hospital facility system being 100% state-owned.

With these amendments, the 28 regional hospitals (a.k.a. district hospitals) have become joint-stock companies (also: Société Anonyme, or S.A.) having 51% state ownership and 49% participation of the district's constituent municipalities. Municipal (area) hospitals have become single-member limited liability companies (LLCs) of full (100%) municipal ownership. All other medical facilities for outpatient care (medical centers, group and individual practices) have been transferred to the private sector.

The Emergency (ER) Medical Care Centers, Blood Transfusion Hematology Centers, homes providing medical and social care for children and medical facilities with the Council of Ministers and the Ministry of Defense, Ministry of Interior, Ministry of Justice, Ministry of Transport and

Communications, as well as and the state mental hospitals remain under 100% state ownership. The university hospitals also remain state-owned joint-stock companies.

The change of ownership of medical facilities through the substantive/material and procedural rules of the Commercial Law contains the presumption of establishing conditions for future privatization of medical facilities and placing them in an environment of competition. In 2002, however, the MIA underwent a very important amendment that effectively halted the entire concept of a sector reform. Section II of the "Privatization of medical facilities with state and municipal participation" Act has been repealed. In 2002, the then Minister of Healthcare, Bozhidar Finkov, imposed a moratorium on the privatization of buildings and offices from the former polyclinics (a.k.a. Outpatient Centers), while the Economic Commission in the Parliament excluded hospitals from the general order for privatization, with the argument a separate law for the privatization of the hospitals would be passed within a year. In practice, this never happened, and thus the process of opening private facilities providing hospital care was launched, and they – immediately after their establishment – sign agreements (to provide medical services) with the NHIF.

After the establishment of the NHIF on 01 July 2001, the first contracts were signed with 149 hospitals for 30 clinical paths – as many as were defined, formulated and valued until then. Only a few years later, their number has increased multiple times and currently covers practically the entire pathology. By 31 Dec 2019, there are already 313 hospitals that have signed contracts with the NHIF. Compared to 2001, there is an increase of 164 hospitals. It is obvious the repeal of the legal possibility to privatize the existing hospital treatment facilities has led to the establishment of private facilities. Thus, a parallel private hospital network began to be formed, and it numbered 369 in 2019 – i. e. an increase of 115 new hospitals, making Bulgaria the leading country in the EU (and probably worldwide) with the most hospitals per capita. Only for the 2011-2018 period, the number of private hospitals increased from 89 to 114.

Alongside, the total number of medical specialists working in the health care system is not growing; on the contrary, it is decreasing for a number of reasons – age, migration, etc., thus creating extreme difficulties to meet licensing standards and ensure the quality of hospital services and last but not the least, creating a setting for migration from one hospital to another.

In this context, an interesting amendment in the regulatory framework is the Decision from 2010. According to it, another medical facility for hospital care can carry out activities on the territory of

a state or municipal medical facility for hospital care under the condition the former performs different medical activity from the ones carried out by the host hospital. The consequences of this legal possibility are mainly related to the migration of specialists from public to private medical facilities for hospital care, or at least their work in two or more places.

An important highlight in this process is the fact the NHIF cannot refuse to sign contracts with any medical facility meeting the legal requirements and registered according to the relevant procedure. In the future, this becomes one of the most important reasons in the sector for the occurrence of new ill-twisted alterations incompliant to the needs of the population and the current demographic processes in the country.

PART TWO

2. COMPETITIVENESS AMONG PRIVATE HOSPITALS

There are three types of hospitals – in regard to their activity and registration. Nonprofit (non-for-profit), for-profit and state/municipal. Non-profit hospitals are usually structures established by private or public non-profit organizations – charities, religious and humanitarian organizations, foundations, etc. These hospitals are funded in various ways, yet do not make profit, as all their income from donations, charity, etc. is used to cover the costs of medical activity. On the other hand, these hospitals are exempted from taxes or follow a reduced taxation course. Some researchers distinguish between the pure form "non-profit" and non-for-profit, i.e. profit is not the main objective of the hospital's work and, if any, it is used to re-invest in the same activity.[1] It is important to note the form of ownership does not always match the type of hospital, in terms of whether it is a non-profit or a for-profit one: the crucial part here is not the type of ownership, rather the choice of how a hospital would function and how its activities would be financed.

In different countries, hospitals operate under different market conditions associated with different demographic, competitive, legal, economic, and other properties. Therefore, each system of hospital care has its specifics traits. A European-wide review shows significant differences in the organization and structure of hospital care in terms of hospital ownership and operation. In Bulgaria, all private medical facilities providing hospital care work for profit, while those with full or

[1] Before 1944, there were various hospitals in Bulgaria established in this manner – and they were later nationalized.

partial state or municipal participation work without profit, yet they enjoy certain financial independence.

Using the above definitions, it can be concluded all medical facilities for hospital care (MFHC) in the country, established and managed by private investors, work for-profit, as there are no MFHC in Bulgaria, founded by non-profit organizations, charities, religious and humanitarian organizations, foundations, etc. Hospitals of full or partial state or municipal participation operate without profit, although their structure as commercial entities allows them some freedom to manage their own funds – for planning and sustainability purposes.

In the organization of hospital care financing from a public national fund – the NHIF, this question arises: where does the profit of private hospitals comes from, given that the prices of the clinical pathways they work with and are reported are the same both for them and for the state healthcare entities? Regardless of the fact all hospitals in Bulgaria are registered in compliance of the Commercial Law order (and more precisely, under the Medical Institutions Act, using the Commercial Law order), they have no right to any other activity than medical activity. Moreover, they are not tax-exempt, as would be the case with non-profit charitable hospitals if there were any in the country. The simple answer is the profit of private hospitals should come from wise management, efficient use of resources and staff optimization. Researchers emphasize ownership of hospital facilities does not have a major impact on their product, or their market share, respectively.[2] Initially, market competition in health care is expected to lead to serious improvements in the quality of services offered by hospitals. It can further lead to the establishment of new forms of hospital strategies, and policies to attract patients.

Now, is the market competition due to terms of prices of services or in terms of competition when signing contracts with a single buyer of health services? The following presumption is made here: the concept of creating competition in health care is misleading – from a certain point of view. It assumes market competition is a distinct policy that can easily be managed and changed over time. The reason is market reforms can be revoked or postponed or weakened or twisted from a conceptual point of view. Therefore, a number of researchers believe market-oriented reforms do not have a clear impact on costs, equal access and distribution of financial resources in the state.[3]

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[2] **Bruch, J. D., Bellamy, D.**, *Charity Care: Do Nonprofit Hospitals Give More than For-Profit Hospitals?*

[3] **Hans Maarse, Charles Normand**. *Market competition in European hospital care (Investing in hospitals of the future)*, European Observatory on health systems and Policies. WHO, 2009.

On the other hand, when we talk about competition in the hospital services market, the following considerations should be considered: first of all, the healthcare market is a quasi-market, i. e. it does not fully correspond to the principles of supply and demand. The reason is the following: health is not a commodity in the traditional definition of the word. Health is a blessing and a value proportionate to the concept of virtue. It should have an aim and be an ideal to achieve.

The public-private amalgam is a political, economic, social and value-balanced model of economic relationships in healthcare. This public-private amalgam was introduced in Bulgaria after the reforms in 1997-2001. The establishment of companies registered under the Commercial Law order makes it possible to liberalize the system without sudden shocks through mass or cash privatization (as it happened in other areas of economic life), to describe the legal entity that, in parallel with the establishment of the health insurance fund, will be able to execute independent contracts for funding and outline a perspective for future privatization of these structures. Outside of this model, it is later possible to establish private hospital structures, as the regulatory mechanism – in addition to the registration requirements – is the so-called *health card*, describing the need for medical activities by regions in the country.

A question of interest is whether the hospital's behavior depends not only on its form of ownership, but also on that of its potential competitors? Some analysts suggest the market share of for-profit organizations is positively related to responsiveness to financial incentives among non-profit organizations.

PART THREE

3. STATE OF THE SECTOR - DEVELOPMENT OF PRIVATE HOSPITALS IN BULGARIA

The 2013-2023 decade was marked by dynamic growth in the number of private medical facilities providing hospital care. In the years of the Covid-19 pandemic and after, there has been less growth in the number of new private medical facilities, having 1-2 new ones established per year. However, the establishment of additional activities and expansion within the already existing private hospitals continues, with the number of patients transferred to them and funding from the National Health Insurance Fund continuing to increase. According to data from the NHIF and the National Center for Public Health and Analyzes for the 2012-2022 period, contractual partners- medical facilities for

hospital care increased by 34. In 2022, the NHIF has signed contracts with 166 medical facilities for hospital medical care, including medical centers, while in 2012 they were 132.

According to the data of the National Statistical Institute (NSI)[4] by 31 Dec 2022, there are 319 medical facilities for inpatient care operating in the country, and 116 of them are private. The smaller number of private hospitals compared to the NHIF statistics is due to the fact there are also medical centers among the medical facilities for hospital care-contractual partners of the NHIF. A little under a third of the total number of hospital beds in the country, being 52,462 by 31.12.2022, is located in private hospitals.

There are significant differences in the indicators of provision of hospital beds to the population by region. By the end of 2022, this coverage is 848.5 per 100,000 people. The highest values of this indicator are in the districts of Pleven (1,184.5 per 100,000 pax.), Smolyan (1,135.5) and Plovdiv (1,069.5), while the lowest cuts are in the districts of Pernik (400.0), Yambol (420.9) and Vidin (460.5).

Disproportions are also observed in the case of private hospitals, with a concentration of a larger number of privately owned medical facilities in a smaller number, usually regional and university centers. An analysis by BILI based on data on the contractual partners of the NHIF for 2022 shows there is only 1 district in the country of no private medical facilities with income from the NHIF, and that is Silistra. In many other regions of the country, e.g. Vidin, Dobrich, Smolyan, Targovishte, the presence of private capital is concentrated in small medical centers, and they have negligible income from the NHIF, compared to the big players in the sector. The regions of Sofia-city, Plovdiv, Pazardzhik and Pleven have the largest number of private medical facilities for hospital care.

At a national level, by 2021, private hospitals have a market share of 35%, estimated on the basis of activities carried out, reported and paid for by the NHIF. It has been constantly growing in recent years, while the share of state hospitals has decreased to below 50 percent – 49.74%. The share of municipal hospitals is relatively constant and slightly varies at around 15%. Although private hospitals have a market share of about 35 percent at a national level, private medical facilities in several areas (Plovdiv, Pazardzhik, Pleven, Burgas, Ruse and Yambol) receive ≥50% of the funds for hospital care from the NHIF, i. e. gradually displacing state hospitals as the leader in the local market.

[4] *Healthcare, 2022,* NSI and the National Center in Public Health and Analyses. Available at (website link): https://www.nsi.bg/sites/default/files/files/publications/Zdraveopazvane_2022.pdf

Again, according to NSI data[5], in 2021, 1,850,783 patients were treated in the inpatient centers with the country's medical facilities, and 693,193 of these (or about a third) received services in private medical facilities. The quoted statistics do not cover the so-called Ministry-owned hospitals. The average stay of 1 patient in hospitals in the country is 5.3 days, while private medical institutions boast a shorter hospital stay of 4.1 days.

In regard to the dynamics in the development of private hospital care in the longer term, one can get interpret the NSI data, as it shows the number of surgeries performed in private hospitals in the 2005-2021 period increased from 24,958 to 291,726 – i. e. more of 10 times.

There is a trend for the already existing private hospitals to continue growing by expanding their activity, at the expense of having fewer entirely new private medical facilities established on an annual basis.

There are three larger private hospital groups operating in Bulgaria, and they own both general (or multi-profile) and specialized medical facilities and have the largest market shares: the Bulpharma group of hospitals; the Acibadem chain and the Trade League group.

Apart from them, there are also numerous smaller private entities, mostly of regional importance, specialized medical facilities with a specific focus on several therapeutic areas among them – more attractive for private investment treatment scopes: Cardiology, Oncology, Orthopedics and Traumatology, Ophthalmology, Hemodialysis.

This question constantly arises with regard to private healthcare: Should healthcare be a business? Is it okay to be? What do patients gain and lose from this? Who owns and operates this business?

It is obvious healthcare (and not only private healthcare) in Bulgaria is a business. It is obvious this business is good and profitable. As with any profitable business, it is not always easy to discern who the real owner behind an enterprise is.

A review of publicly available sources indicates, for the most part, private medical facilities are established and owned by doctors or people with medical education. However, there are not a few cases where owners – partially or of all the capital – are entrepreneurs whose main activity has been developed in a completely different direction. As for foreign investments – in general, there is no big breakthrough in this field, with one serious exception – the ACIBADEM Group.

[5] *Ibid.*

Last but not least, the analysis of equity in private healthcare shows the same final owners who started their business first in healthcare have, over time, developed their portfolios in a variety of other directions.

3.1. The Big Three

To a large extent, the latter conclusion applies to the three largest private hospital groups in Bulgaria. They own both general (multi-profile) and specialized medical facilities and have the largest market shares. We are talking about the Bulpharma group of hospitals; the Acibadem chain and the Trade League group.

The Bulpharma Group, owned by Dr. Mihail Tikov, has been investing in the health sector since 2000, and it completed the first privatization of a public health facility in the town of Pazardzhik in Bulgaria in the very same year. Since then, the company – through privatization and its own construction projects – has established 6 hospitals in Sofia, Plovdiv, Burgas, Pazardzhik, Peshtera and Velingrad and 7 medical centers in different towns. The largest of the 6 hospitals is the SOFIAMED General Hospital in Sofia (opened doors in 2012), boasting a total of 646 beds. In 2022, the received amounts from the NHIF of the group hospitals only (excluding the medical centers), amounted to over BGN 187.9 million, making it the leader in terms of revenue among the private chains in Bulgaria. The main contribution to this was made by the three largest medical facilities of the group: SOFIAMED, PULMED (town of Plovdiv) and BURGASMED (town of Burgas).

Part of the Bulpharma group, Bulpharma is also one of the largest distributors of drugs and medical devices in the country, allowing for the direct supply of medicinal products and consumables from its own wholesaler to hospitals.

Here is an interesting fact: in the period from its establishment until 2022, the Bulpharma group acquired the majority shares in 31 companies, and, in addition to health care, they are also active in the field of pharmacy, construction, public transport and logistics, production of building materials, real estate management, etc.

The Acibadem City Clinic Group was established in 2016 as a merger of the existing TOKUDA and CITY CLINIC private hospitals under the umbrella of one of the largest healthcare holdings in Turkey – Acibadem. The group is owned by the Turkish holding in partnership with the Bulgarian

businessman Ivan Angelov, the founder of the City Clinic healthcare group. Among the public, Ivan Angelov is better known for his family business – production of chicken meat under the Gradus brand.

In Bulgaria, the holding includes 3 hospitals in Sofia (TOKUDA University General Hospital, City Clinic Cardiovascular Center University General Hospital; City Clinic Mladost (Oncology Center) University General Hospital and a City Clinic Medical Center in the town of Varna. Two of the hospitals are the only medical facilities in Bulgaria accredited by the Joint Commission International (JCI), an acknowledged international standard for quality and safety. The TOKUDA Hospital is the largest general multidisciplinary medical facility in Bulgaria, built and developed with private investments. It has a capacity of 670 beds, 39 clinics and departments, 3 medical diagnostic laboratories, 22 operating theaters, 4 angiography laboratories (a.k.a. Cath-Labs), an emergency (ER) unit and a clinical research center. The other two medical facilities of the group are smaller in size, focused and specialized mainly in cardiovascular activities and cancer treatment.

In 2022, the three medical facilities of the group in Sofia have accumulated revenue from the NHIF amounting BGN 145.5 million, of which BGN 87.8 million are from the TOKUDA Hospital alone. The latter holds the 2nd place in terms of revenue from the NHIF in general among all medical facilities in Bulgaria, after the St. GEORGE Plovdiv University State Hospital.

The Trade League – Global Pharmacy Center group, owned by businessman Tihomir Kamenov, is an integrated conglomerate of companies and holdings in several areas: hospitals and medical centers, production and distribution of medicines, insurance. Under the Bulgarian Cardiology Institute umbrella, these medical institutions operate: two general hospitals of the Heart and Brain chain in Pleven and Burgas; 5 Specialized Cardiology Hospitals in Pleven, Varna, Veliko Tarnovo, Yambol and Shumen, as well as medical centers in the cities of Sofia, Stara Zagora, Burgas, Varna, Pleven, Veliko Tarnovo and Yambol.

As the hospital profiles show, the majority of the group's hospital business is focused on cardiovascular diseases. The two Heart and Brain general hospitals host departments of Cardiac Surgery and Cardiology, Neurosurgery and Neurology, Thoracic and Vascular Surgery, Anesthesiology and Intensive Care Unit, Medical Oncology, Radiotherapy, OB&GYN, Pulmonology, Orthopedics and Traumatology, Urology, Gastroenterology, among others.

In 2022, the Group's medical facilities for inpatient care boasted revenue from the NHIF amounting BGN 126.2 million.

The pharmaceutical company from the Chaika Pharma group produces generic medicinal products in several therapeutic areas: anesthetics, antibiotics, anti-inflammatory agents, etc., with the widest product range in the field of cardiology, where the hospital business is also focused. Medications helping the treatment of hypertension, thrombosis, hypercholesterolemia, heart attack and stroke prevention, etc. are among the drugs for the cardiovascular system. This allows a partial closing of the cycle by supplying the group's hospitals with medications of its own production. The DallBogg[6]: Life and Health insurance company is also part of the Trade League group, whose portfolio includes health insurance, too.

3.2. Ownership and policy

It makes sense politics influences healthcare because, at least at the legislative level, the sector has been shaped and restructured over the years. Yet, besides this connection, there are many other relations between the two social domains not always so visible. In the case of public hospitals (municipally or state-owned), the relationship between their management and political power is direct, as hospital managers are appointed by local and central governments. In private hospitals, however, there is no such connection. Nonetheless, there are examples where hospital owners become active politicians or have once been politicians. Two such examples are Academician Grigor Gorchev – the owner of the private Sveta Marina General University Hospital in Pleven, and Semir Abumelich – the owner of the Deva Maria (Virgin Mary) General University in Burgas. Both were elected members of the Parliament MPs from the GERB Political Party. The owner of the private Medica hospital (town of Ruse) is Dr. Kiril Panayotov – a popular figure from the GERB Political Party structures in Ruse and a sponsor of the party. Panayotov is also known for being the head of a hospital with the highest annual salary in Bulgaria – ca. BGN 1.5 million (ca. EUR 767,000).[7] According to a 2019 publication of the Bivol investigative website,[8] the Prosecutor's Office was several times referred to on a dubious transaction in Ruse from 2014, where a municipal Outpatient

[6] *In Bulgarian: May God grant* – translator's note.

[7] ***Head of a private hospital has received an annual salary of BGN 1.5 mln.***, mediapool.bg, 10.09.2021 r. Available on: https://www.mediapool.bg/direktor-na-chastna-bolnitsa-vzel-15-mln-lv-godishna-zaplata-news326205.html

[8] ***Ivan Geshev smashed an audit on a multi-lev damage (loss) from the sale of a municipal plot in Ruse***, bivol.bg, 26 Nov 2019; available on: https://bivol.bg/geshev-dkc-ruse.html

Center was sold to GERB activist Panayotov at a price below its tax assessment, but it was "smashed" by the then Chief Prosecutor Ivan Geshev.

The relationship between politics and the private hospital business is multi-layered and it is not always easy to explain how this affects the sector. A specific manifestation of these relationships are the relationships between private hospitals and their public competitors. Due to the strong specificity of each individual case, the way how politics – through the decision-making and control framework it creates (and sometimes despite them) – influences on the relationship between private and public hospitals, can best be illustrated by specific case studies. The research presents three case studies of publicly owned hospitals and how they were brought to the brink of financial and staffing collapse.

The first case study refers to the Hristo Botev Medical Center in Vratsa, where, according to observers, the reason for the crisis in the hospital is unfair competition from private medical institutions working or intending to work in the city.

The second case study examined, is related to Velingrad General Hospital, where the municipality of Velingrad owns 100% of the capital. In the scandals surrounding the hospital management, its managers, municipal councilors, regional governors and party groups were involved, and once again the unfolding of the scandal leaves doubts on unfair competition between one or more private hospital/-s and a public one.

An illustrative example of the collision between public and private interest is the third case study of the Paraskev Stoyanov JSC state hospital in Lovech.[9] Over the years, local and state authorities have also expressed doubts about it, it has been managed well into deliberate bankruptcy – in favor of private interests.

Last but not least, a more in-depth analysis of the ownership of some private hospitals shows there are capital owners and/or participants in their management who belong to the structures of the former State Security. A 2014 review by the Committee for disclosing the documents and announcing affiliation of Bulgarian citizens to the State Security and intelligence services of the Bulgarian National Army found a total of 113 doctors who hold or once held managerial positions on Boards of Directors and Supervisory Boards of hospitals were former State Security agents.[10]

[9] ***How the way is cleared for a private hospital on the back of a public one*** by Martina Bozukova, mediapool.bg, 13 Oct 2017 – see: https://www.mediapool.bg/kak-na-garba-na-darzhavna-bolnitsa-se-razchistva-patyat-za-chastna-news270460.html

[10] ***113 physicians from Hospital Management Boards were once State Security agents***, 24chasa.bg, 09 Jan 2023.

This shows hospital business has not remained isolated from a similar trend, and it has also been well observed in other sectors of the Bulgarian economy during the transition period from a planned/scheduled economy to a market economy.

In other cases, private hospital ownership relations lead to offshore companies or grey businesses. An investigation of the bird.bg site in 2021, made on the occasion of the notorious "Eight Dwarfs" scandal[11], pointed to Ivan Stamenov as the owner of Nadezhda General Hospital in Sofia[12]. The manager of the hospital is Ivan Stamenov's brother – Georgi Stamenov, and publications link him to multiple offshore companies, money laundering schemes from other activities[13], as well as the "Eight Dwarfs" scandal itself.

PART FOUR

4. STAFF and PATHWAYS

In the last decade, a process of migration of doctors and medical personnel from public to private hospitals has been observed. Examples of prominent specialists from public hospitals moving to work in the newly opened private hospitals, sometimes with their entire teams, are numerous. In Sofia, private hospital departments are full of specialists arriving from the Pirogov ER Hospital, the Military Medical Hospital, the Tsaritsa Joanna ISUL Hospital, St. Anna General Hospital, the National Cardiology Hospital, Alexandrovska Hospital, the 1st and 5th General City Hospitals.

For example, almost the entire staff of the well-known Arthroscopic Traumatology Dept. at the SOFIAMED General Hospital consists of former staff from the Military Medical Hospital and the Pirogov ER Hospital, headed by Dr. Antoni Georgiev – a leading specialist in Bulgaria in the field of knee surgery. The recently established Infectious Diseases Dept. at SOFIAMED is headed by Prof. Georgi Popov, a leading specialist in infectious diseases recruited from the Military Medical

See: https://www.24chasa.bg/bulgaria/article/2889999

[11] The *„Eight Dwarfs"* is an investigation of the Anti-Corruption fund revealing specific data on how unlawful influence is achieved in Bulgaria- in order to settle legal conflicts; moreover, attempts are made to seize business/-es through the participation of law enforcement authorities. The entire investigation can be followed on the NGO's website: https://acf.bg/bg/tsyalata-istoriya-na-osemte-dzhudzheta-vs/

[12] ***Bro-in-law" of Uncle [Meele] and a Bulgartabac cigarette smuggler brought in clients to the Eight Dwarfs***, bird.bg, 05 Jan 2021. See: https://bird.bg/stoicev-stamenov-evroto/

[13] The so quoted bird.bg publication claims Ivan Stamenov is involved in cigarette smuggling – his name had appeared as a defendant in an investigation by the Prosecutor's Office of the Republic of Bulgaria in 2007 for smuggling Bulgartabac cigarettes and money laundering.

Hospital. The Medical Oncology Dept. at Acibadem City Clinic – Mladost General University Hospital is managed and largely consists of former Tsaritsa Joanna (ISUL) Hospital staff. The specialists of the private Sveta Marina University General Hospital in Pleven come for the most part from the state-owned Dr. G. Stranski University General Hospital in Pleven, Dr. Tota Venkova General Hospital in Gabrovo and other smaller hospitals in the region. The Uni Hospital – General University Hospital in Pazardzhik has attracted staff from hospitals in Pazardzhik, Plovdiv and Sofia, including from private medical institutions.

In the absence of a change in the implemented policies, this clearly visible trend condemns public hospitals to a severe shortage of medical personnel in the foreseeable future. This is especially true for small-size municipal hospitals; nevertheless, the general trend of a shortage of specialists will affect even some large regional cities having the reputation for being medical centers. Staff shortage is also an important element of the competition between private hospitals themselves, and in perspective it is one of the important factors that will naturally limit and regulate the emergence of new players in the market, and that will even lead to the concentration (and efficiency) of entities in the sector.

Clinical pathways are the main source of revenue for hospitals. Of course, the differences in the prices of the clinical paths, their labor volume and risks of complications give reasons for the hospital management to have the corresponding plans and preferences. The three main criteria for this type of planning are: 1. Pathway cost, 2. Hospital workload for its implementation, and 3. Turnover related to the specific morbidity of this diagnosis. In a certain sense, however, hospitals do not have a particularly large choice within the described framework – possibilities to implement (execute, carry out) a given pathway, the pathway cost and the number of patients treated under it on average per year. A clinical pathway of high turnover and relatively low cost may be preferred by the hospital manager simply because it will have a higher turnover of patients it will also receive the due payment for. On the other hand, a costly pathway for a highly specialized activity can also be profitable if the respective hospital has built the necessary potential - equipment, trained specialists, organization, etc. for its implementation.

However, one more important factor should be considered in these considerations – these are the limits the NHIF has set for the implementation of hospital care. This administrative pressure distorts the real picture of demand and supply of medical services and changes the ratios. The conclusion

emerging is this: the management of the overall process in the interest of the patient is by the NHIF and the framework agreement, as the prices of the clinical pathways are subject to negotiation, yet they are largely calculated in advance by the NHIF. The negotiation itself is also conditioned by lobbying pressure from one specialty or another within the class/union organization, yet another element of the overall complex picture of managing the system through financial flows.

The popular public narrative articulates private hospitals choose the clinical pathways to work on. The reason is because some clinical pathways are overfunded, while others, and thus entire groups of diseases, suffer from underfunding. Again, according to popular belief, one of the reasons for the poor economic condition of many public hospitals compared to private ones is the former are required to serve patients on the lower paying pathways as well. What do the statistics show?

Private hospitals get an even more increasing share of the NHIF budget for hospital medical care. Among the 50 medical institutions with the most funds paid out under clinical pathways in 2018, these are 16 private and 33 public hospitals, while these are 18 private hospitals and 31 public hospitals in 2022.[14] Although the number of private hospitals among the most consuming public resources has not changed considerably, we see a significant increase in the amounts they make. In 2018, the NHIF paid BGN 986,883,328 to the top 50 hospitals, and 32% of it (i. e. BGN 312,261,215) went to the private hospitals. For comparison, the NHIF paid BGN 1,440,597,196 to the top 50 hospitals in 2022, and the share of private hospitals was already 38%, having received BGN 550,207,636. At the same time, a faster increase in the share of private hospitals is observed in some areas of medicine in their revenues from the NHIF compared to the overall growth rate of 6%. This is due to both the greater interest in this type of activities and the higher income they generate.

PART FIVE

5. FUNDING, PROCUREMENT AND PRICING

Public funds are like air for modern healthcare in Bulgaria. Both state, municipal, and private hospitals form the huge share of their revenues precisely on the grounds of public funds. The main similarity in funding public and private hospitals is this: both groups of medical facilities form the

[14] The public-private UNI Hospital (General Hospital) has been excluded from the comparisons and statistics due to the fact it refers to a different category: of a mixed type.

core of their income based on their contracts with the NHIF for the execution of medical care. Another similarity is their equality, regardless of the type of ownership – that is, each medical facility operates freely and according to the legally established norms in the Bulgarian economy. Thirdly, there is the principle they cannot carry out commercial (profit-oriented) deals, except for the needs of their medical activities and to serve patients.[15]

The differences consist in the fact while public hospitals receive funds and subsidies from the national and municipal budgets, this does not apply to private ones, whose investment for construction and maintenance is formed from their own income. The other most basic difference is related to the obligation of conducting public procurement. According to the Public Procurement Act, only MFHCs with public ownership, but not private ones, are obliged to conduct such procurements. Moreover, private hospitals do not fall in the scope of Ordinance #5 of 17 June 2019, concerning the financial activity standards applied by state and municipal medical institutions for hospital care and complex oncology centers.

By law, medical facilities in Bulgaria are on an equal footing, regardless of their form of ownership. It means they should function according to the same rules and under equal conditions, yet in reality, there are exceptions to this rule in Bulgaria. For example, some public hospitals receive a budget subsidy for certain activities important to society, such as work in hard-to-reach areas, while private hospitals are not entitled to it. One of the most significant discrepancies is the possibility for private medical institutions not to conduct public procurement for the supply of goods and services, unlike state and municipal ones.

From 2004 to 2012, the Public Procurement Act provided for an obligation for private hospitals to conduct public procurement. Initially, private hospitals were defined as contractors in the Act if more than half of their revenue comes from the state budget. Since 2011, the requirement for conducting public procurement is this: the medical facility should be funded with more than 50% of public funds, and since 2012: more than 30% of the revenue for the previous year must have been accrued from public funds. While this obligation was in place, private hospitals are against it and insisted on its revoking, with the following argument: from public funding point of view, it does not matter for the NHIF budget what costs a hospital incurred to provide a service, as the payment

[15] More on the topic of hospital funding please see in ***Procurement in Healthcare in Bulgaria – how to use it?***, BILI, Sofia, 2022.

for it is fixed.[16] After the adoption of Directive 2014/24, a brand new Public Procurement Act was adopted in Bulgaria in 2016, where private medical institutions are exempted from the obligation to conduct public procurement.

In 2020, it became clear the European Commission had initiated proceedings against Bulgaria for excluding private medical institutions from the circle of public-legal entities and from the obligation to conduct public procurement solely on the basis of their form of ownership. Bulgaria has been a party in the proceedings for violating the Treaty on the Functioning of the European Union due to an incorrect interpretation of the concept of "public-legal entity". In addition, the legal proceeding against Bulgaria affects yet another aspect of the Public Procurement Act in hospitals, namely the possibility of some unregistered medicinal products being procured by hospitals without public procurement. Despite the efforts in the period 2020 – 2023 for private hospitals to become obliged entities under the Public Procurement Act, too, the amendments in the Public Procurement Act passed in the National Assembly of Bulgaria in October 2023 once again leave private hospitals outside the entities obliged to conduct public procurement – i.e. they continue not to conduct public procurement for medicines and medical devices, although the NHIF pays for them using funds from health contributions. The arguments of private hospitals to be excluded from public procurement principals (or clients) are they cannot be included in the definition of "public-legal entity", as they bear their own losses, if any, and are not covered by the state.[17] In its standpoint, the National Private Hospitals Association of (NPHA) states medical facilities registered under the Commercial Law and predominantly (more than 50%) privately owned *are not "public-legal entities*" within the meaning of Directive 2014/24/EU. Outside of the legal arguments, they note the private owner of a medical facility – a commercial company – is personally interested in providing supplies at the lowest possible price, as lower costs lead to higher profit for it, and vice versa – the higher the price of the supply the bigger the losses for it personally. This motivation is absent in medical institutions publicly owned, as the increased costs do not harm the one carrying out the procurement, rather the state or the municipalities, owners of the entity, the expense on the losses of the company go to, too. In this sense, private hospitals do not accept the argument

[16] ***Private hospitals dispute the obligation to carry out public procurement procedures***, by: Martina Bozukova, mediapool.bg, 05 Aug 2023. See: https://www.mediapool.bg/chastni-bolnitsi-osporvat-zadalzhenieto-da-provezhdat-obshtestveni-porachki-news209741.html

[17] See: Ministry of Finance, **Report on reflecting the proposals from the public consultation on the draft of the Amendments and Supplements Act to the Law on Public Procurement.**

legislative amendments, which would oblige them to conduct public procurement, level the ground for all medical facilities. According to the NPHA, this shows a complete misunderstanding of the philosophy and meaning of Directive 014/24/EU and of the Public Procurement Act. The scope of the two normative acts is not to unify all entities, rather on the contrary – to limit only those of them whose actions bring forth consequences for public funds.[18]

However, practice explicitly shows there are cases where the lack of public procurement in private medical facilities leads to damaging the NHIF budget. Even now, the ill practice of NHIF paying the same medicinal product at different prices to different hospitals remains. According to an analysis issued by the Ministry of Finance, in 2022, Bulgarian taxpayers paid BGN 2.04 billion – through their contributions to the National Health Insurance Fund – to all hospitals in the country for the provision of medicines, consumables, medical devices, etc. At least BGN 750 million of it, or 37% of those over BGN 2 billion, Bulgarian taxpayers pay to private hospitals through the NHIF. At the beginning of 2020, the then manager of the NHIF, Dr. Decho Dechev, presented data the Fund paid for the same medicinal product for the treatment of oncological diseases, ***Pemetrexed***, with up to a 7-fold price difference. The reason for this is private hospitals – as they do not conduct public procurement, bought, and reported the Pemetrexed drug to the NHIF at the highest possible price – the one from the positive drug list, while the competition in public hospital tenders provided significant lower price. Although it damages the NHIF budget, the ill practice is legal as the prices from the positive drug list are the limits the NHIF pays up to.

In the conditions of inequality between public and private hospitals regarding the execution of public procurement, Boyko Borisov's third government in 2020 decided to make the prices of the centralized oncology drug e-auction to be the "reference" value for all medical institutions, i. e. the NHIF would pay all hospitals – regardless of their ownership – at the prices set in the e-auction. The centralized e-auction, however, is subject to constant appeals initiated by distributors who disagree with its terms. After the initial two-year framework agreements expired, the new e-auction has been blocked by complaints throughout 2022. In December, the Supreme Administrative Court (SAC) finally put a stop to it, confirming the resolution of the Consumer Protection Commission on the Bulpharma's appeal.

[18] **Standpoint the National Private Hospitals Association** of in regard to a bill on the amendments and supplements of the Public Procurement Act, 23 Apr 2021. See: https://www.privatehospitals.eu/2021/04/23/директива-зоп/

Some of the operating private medical facilities are part of larger commercial/holding groups, including distributors of medicinal products. At the same time, there are examples of the interrelationship between the prices hospitals purchase and report drugs at and the effect on the NHIF budget. It is a [common] practice for a distributor to supply a hospital of a common owner. And although the costs are covered by a private insurer in the specific case, a similar situation may arise in the supply of medicines covered by the NHIF, i. e. the profit formed by a certain commercial group is at the expense of a liability in the NHIF budget.

FINAL CONSIDERATIONS

The number of private medical facilities has continued to grow in the last decade, in parallel to the expansion of the activities/services of the already existing private hospitals – by opening of new locations, clinics and departments; the number of patients treated there and the funding coming from the National Health Insurance Fund (NHIF) has increased, too. Besides, the total number of medical specialists working in the health care system is not increasing; on the contrary, it is decreasing for a number of reasons – age, migration, etc., thus creating severe difficulties in meeting licensing standards and ensuring the quality of hospital services and not less importantly, it creates conditions for [staff] migration from one hospital to another.

In the conditions of prohibited privatization of public medical facilities, the on-growing network of private hospitals covers an increasingly large market share. At the national level, private hospitals have a market share of ca. 35%, yet in several areas of the country, private medical facilities get ≥50% of the hospital care funds from the NHIF, i. e. they are gradually displacing state hospitals as the leader in the local market. Thus, the privatization of medical care in Bulgaria is underway, and it is without being subject to any state vision, rather thanks to the absence of one. The establishment of new private hospitals, their profile, size and functions depend entirely on the market and their investor's business plan, and it is not in response to any unmet health needs of the population. Evidence of this trend is the uneven distribution of private hospitals throughout the country, mainly concentrated in several large cities/towns, such as Sofia, Plovdiv, Pleven, Pazardzhik, Burgas, Ruse – to name a few.

Meanwhile, private and public hospitals function in unequal conditions, although they are equal by law. While public hospitals receive additional funding in order to perform certain functions

important to society, the State has no such requirements to the private hospitals, and they do not receive additional funding. At the same time, private hospitals are exempted from the obligation to conduct public procurement for medicinal products and consumables. The state policy should be aimed at eliminating the sources of inequality between private and state medical institutions, both legally and through regular and independent control of their activities and imposing sanctions on anti-competitive practices.