



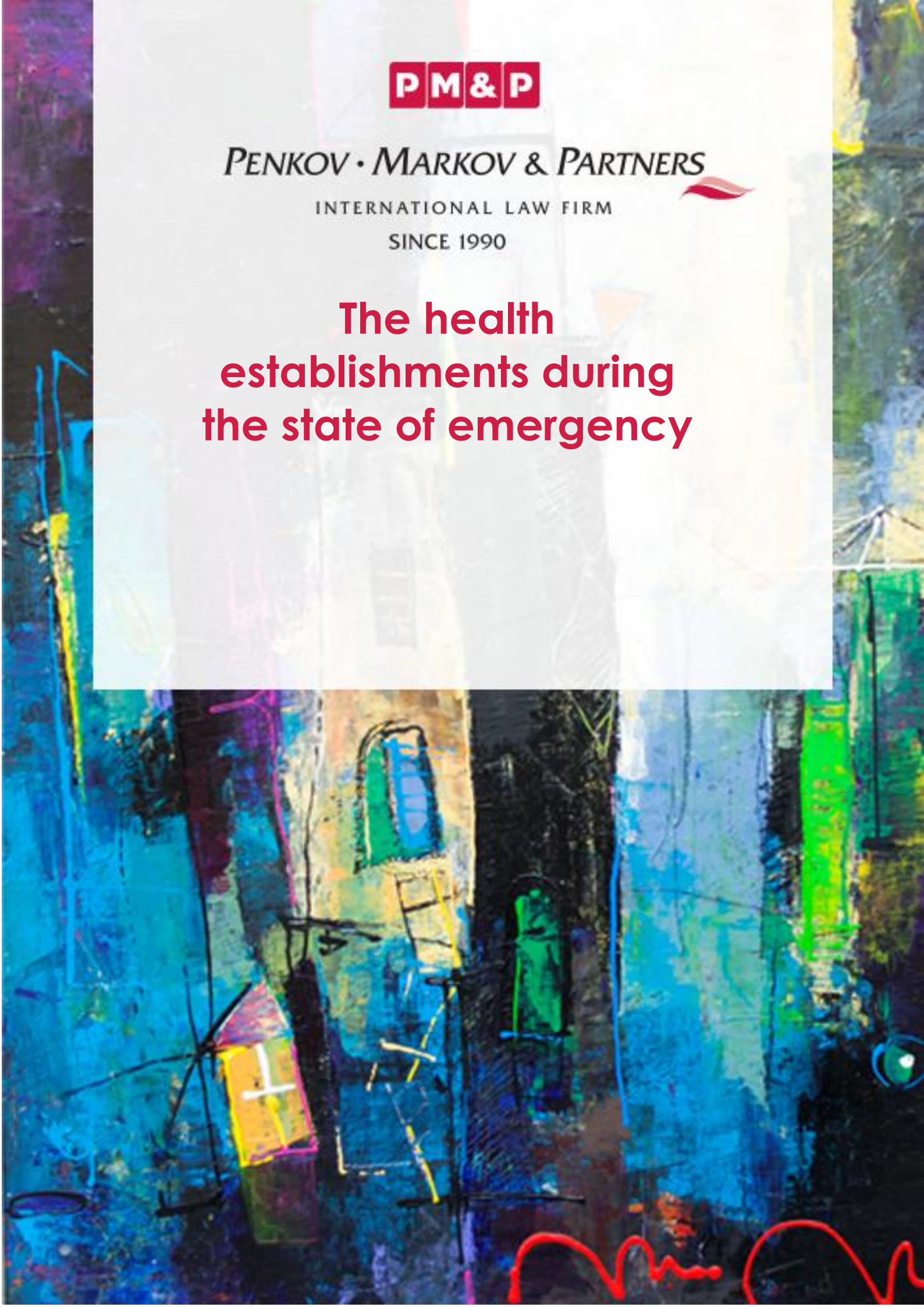
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INTERNATIONAL LAW FIRM

SINCE 1990



**The health
establishments during
the state of emergency**



On 13th March 2020 the Bulgarian Parliament declared a nationwide state of emergency, which led to many changes in legislation affecting small and medium-sized businesses, as well as all social sectors. The healthcare industry, where social and moral responsibility is at its highest in the fight against the worldwide pandemic, found itself in the eye of the storm.

Order No. RD-01-124/13.03.2020 of the Minister of Health has introduced anti-pandemic measures, whereas one of them suspends the planned child and female consultations, prophylactic examinations, immunizations, planned hospital admissions, planned surgical procedures, including organ transplantations, as well as visits to people currently admitted in all the healthcare establishments. This practically reorganizes all activities of the healthcare establishments, limiting their work just to treating patients in need of immediate medical attention.

Medical establishments, as well as medical centers, which have concluded a contract with the National Health Insurance Fund (NHIF) receive financing based on the patients treated (clinical pathways, outpatient

procedures, medical consultations, etc.), which is limited to a certain amount per month to be paid by the Fund. A sufficient part of this monthly budget is realized by the medical establishments due to their planned hospital admissions, the planned surgical procedures they undertake, the treatment of chronic diseases, etc. In a state of emergency, the revenue of hospital and outpatient care structures is expected to decline dramatically. Their operation expenses are also likely to increase, as these establishments should strictly comply with the instructions issued by the Regional Health Inspection Offices, therefore they must regularly purchase and supply both medical and non-medical personal protective equipment and disinfectants, whilst the sales prices of the latter are growing significantly.

Although the government has expressed its intention to stimulate the people fighting the disease by paying BGN 1,000 monthly additional remuneration over the base salaries to the medical and non-medical staff directly involved in the treatment of patients with coronavirus infection, this



measure will not affect a significant part of the medical staff throughout the country working in places and structures offering medical help in all other cases apart from those treating COVID-19. In order to fulfill its intention, the Ministry of Health has signed a contract under the Human Resources Development program supporting medical and non-medical staff at the front line in the fight against COVID-19. However, the funds will be distributed among 1,700 people in 34 healthcare establishments, amounting to about BGN 2.6 million. The remaining 3.4 mln. BGN, to the allocated 6 mln. BGN, will be granted to the workers in the Emergency Aid, RZI and NSPZB, which represent a considerable incentive, on the one hand. On the other one, it is, to a certain extent, largely insufficient, and its consequences could lead to tension in the healthcare sector since in reality all healthcare workers are at the front line, but not everyone is entitled to an additional payment. Although the work of the employees directly involved in treating the disease and its prevention, as well as that of other healthcare professionals, is growing, there are currently no additional measures introduced by law or government regulation, aiming to compensate health

professionals accordingly, as well as the healthcare establishments.

The criterion for distribution of the said funds is as follows: in hospitals where up to 5 people infected by COVID-19 are being treated – 40 people of the medical personnel will receive additional compensation; medical establishments taking care of 5 to 10 patients infected with the virus will receive compensation for up to 70 people of the medical personnel; and those with over 10 infected people will receive financial aid for up to 100 people of the medical personnel. The personnel in question concerns the ones working in the intensive care units, emergency departments and laboratories.

A new Order No. RD-01-159 of 27.03.2020 issued by the Minister of Health has designated the medical establishments and their wards which will provide medical help to patients affected by the coronavirus.

The choice for designation of the said medical establishments is made on the basis of the existence of wards/clinics therein for internal diseases and/or infectious diseases



and/or pulmonology and physiology, as well as the existence of a ward/clinic for anaesthesiology and intensive care. Hospitals with mainly oncology, obstetrics, ophthalmology and surgery patients, despite the existence of wards/clinics for anaesthesiology and intensive care, were left out of this list for two reasons - the high-risk patients being treated in the aforementioned structures and the lack of a concluded contract of these hospitals for the treatment of clinical pathways for internal/infectious diseases, which leads to the impossibility of the medical establishments to account for such activity and, therefore, to be paid by the NHIF.

In this regard, the Bulgarian Medical Union has made a proposal for all funds to be paid to all medical establishments, whether it is a primary or specialized healthcare establishment, laboratory or a hospital, without the said payment being bound to the reported activity of the establishments, for as long as the state of emergency lasts. The negotiations with representatives of the Health Fund have begun and the agreements which will be reached shall have to be

included in an Annex to the National Framework Contract 2020-2022.

During the past two weeks from the beginning of the declared state of emergency, private donations for medical equipment, personal protective equipment, medical facilities, etc. are being made to the hospitals affected by the coronavirus infection. The Ministry of Health is also launching a DMS campaign to support Bulgarian medical professionals working in the conditions of the COVID-19 pandemic, which will significantly contribute to and help combat the disease, but is not likely to cover the envisaged decline in the revenue of the healthcare establishments.

Along with the aforementioned, despite being expected, as well as logical, healthcare establishments were not included in the scope of the employers who could benefit from the 60/40 support scheme under the Decree for the terms and conditions for payment of compensations to employers with the aim to preserve the employment of workers and employees during the state of emergency,



In the light of all of the above, it is advisable to consider the introduction of a measure for adequate financial support for hospital and outpatient care facilities in order to ensure the timely and continuous provision of medical care to all those in need during the state of emergency. Moreover, a timely measure of this nature would prevent the subsequent bankruptcy of many healthcare companies and help stabilize and operate the healthcare system. The pandemic of the coronavirus is proof that healthcare must always be a priority and that it cannot be limited by the traditional economic and financial discourse.

a guide for interpreting the news as of 5th April 2020.

For other current topics related to the legislation stipulating legal relations in the state of emergency, you can find information on our website: www.penkov-markov.eu.

Of course, you can contact us for further information and cooperation also at: lawyers@penkov-markov.eu.

The above provides general information related to the adoption of the Measures and Actions in the State of Emergency Act, whereas it is not exhaustive, but rather serves as

