Резюме на английски език на дисертационен труд:

Настоящият дисертационен труд на тема „Административноправен режим на трансграничната здравна помощ“ си поставя за цел да отговори на въпросите какви са правните и административните пречки, пред които са изправени здравноосигурените лица, при реализирането на правото си на трансгранично здравно обслужване. Усилията са насочени към изясняване на правните неясноти, свързани с прилагането на законодателството в областта. Темата за правата на пациентите, свързани с достъпа им до висококачествено и подходящо лечение в друга държава членка на ЕС, осем години след транспонирането на Директивата за правата на пациентите при трансгранично здравно обслужване, все още е актуална.

The regulation of cross-border access to treatment for European citizens has a long history, connected mostly the free movement of persons and the freedom to provide services across borders, which are fundamental principles of EU law. Patient mobility within the EU sits at the intersection between the health legislation and the rules on the free movement. It is ensured by three main legal sources - the basic Regulation (EC) 883/2004 and the implementing Regulation (EC) 987/2009[1]; the case-law of the European Court of Justice (ECJ) in the context of the freedom to provide services and the free movement of goods; and the Directive on the application of patients' rights in cross-border healthcare[2] (which, rather than clarifying the matter, leads to more ambiguity). In some cases the existing regulation overlap, while in others the provisions are in conflict with one another. In the latter instance, this leads to legal uncertainty.

[1] Council Regulation (EC) No 883/2004 of 29 April 2004 on the coordination of social security systems [2004] OJ L 166/1 (hereinafter also referred to as Basic Regulation or BR) and CouncilRegulation (EC) No 987/2009 of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems [2009] OJ L 284/1 (hereinafter also referred to as Implementing Regulation or IR).

[2] Council Directive 2011/24/EU of 9 March 2011 on the application of patient' rights in cross-border healthcare [2011] OJ L 88/45 (hearinafter also reffered to as CBHC Directive and Directive on patients' rights)

The European regulation of patient mobility in the EU creates confusion over the applicable rules in various situations of cross-border patient mobility as well as in regard to the parallel applicability of legal instruments.

The Republic of Bulgaria has been a Member State (MS) of the European Union since the first of January 2007. Its status as a competent Member State (MS) and a Member State of affiliation (MSA), with the rights and obligations this entails, has led to issues governing patient mobility. The introduction into Bulgarian legislation of a unified system implementing the legal mechanisms for cross-border healthcare, the time limits stipulated by the administrative procedures for its provision, the refusal to reimburse expenses for treatment abroad, and the complaints against individual administrative actions of the competent authorities are only a small number of the challenges that Bulgarian patients face.

The review of the Bulgarian legal framework of the cross-border healthcare leads to the conclusion that the latter is fragmented and needs improvement in its overall structure. The regulation at EU level does not contribute to the protection of patient rights. The main problem that remains unresolved is how to synchronise[3] and make both regimes of access to health care consistent, pursuant to the integrated system for the benefit of the patients, without a significant loss for the national health budget. The parallel existence and application of both regimes give rise to confusion and discourages patients from pursuing the fulfilment of their rights. A possible solution would be a proposal for establishing a common system that would regulate the relations in the health area at both the national and EU level. Relevant in that respect is the thesis of a Bulgarian author[4] that one of the greatest problems in the Bulgarian legislative process is the implementation of the EU legislation. On the one hand

[3] Hristo Hristev, *Internal market and fundamental freedoms of movement in the EU Law*, (Ciela, 2018) 258 ISBN: 978-954-28-2607-1

[4] Krasimira Sredkova, '*Does the Bulgarian Labour and Social Security Legislation help to combat the Economic crisis?*', ch. III, "*Good Practices in social law*", (Thompson Reuters,2015) (ed. 1) 71, ISBN: 978-84-9099-551-8

the legislative texts are translated literally, irrespective of the existing national rules; and, on the other, the national laws are transposed to numerous laws and regulations at all normative levels.

The last part of the the PhD thesis gives a brief overview of the main functions and objectives of the National contact points. It presents the different approaches of the Member States in which they are established and the information channels for the patients. It also lays down the obligations for an interinstitutional communication with the other interested parties on European and national level, attention is also brought on their role depending on whether they act on behalf of a Member State of affiliation or of treatment.

The existence of two parallel regimes - the one of the Coordination Regulations and the one of the Directive, set by the EU Law regarding the access to cross-border healthcare, as well as the different approaches of the Members states to its interpretation and transposition, requires a mechanism to improve the awareness of the patients regarding their existing rights and to facilitate their practical use. For this particular reason the Directive envisions an instrument to overcome the lack of patients' awareness through the introduction of a rule that obliges the Member States to create a National Contact Point (NCP) for the purposes of cross-border healthcare.

It is statistically proven through the years that most of the EU citizens are vaguely familiar with their rights[5] regarding the cross-border healthcare, regardless of the created by Art. 6 of the Directive mechanism for the enhancement of their awareness, namely the NCP.

The structure and functions of a NCP are, as it was demonstrated, set in the Directive's provisions but that does not mean there are no oversights or gaps that have a negative effect on their day-to-day functioning. The sensitive matters like the lack of any requirements to the people, providing the necessary information to the patients, the lack of definitions for relevancy of the information, the language, in which it should be provided, etc.[6] are only some of the problems, subject to many studies and scientific efforts.

Generally, the understanding is that the standardization and unification in the approach of the Member States regarding the activity of the NCPs would lead to

[5] European Commission, *Special Eurobarometer 425: Patients' rights in cross-border healthcare in the European Union* [May, 2015]

[6] "It remains to be seen how far National Contact Points themselves will see their role in providing information as providing information not only about the specific enforcement rights and processes, but about the more general legal landscape that itis essential to know and understand to make effective complaints... It remains to be seen how far individual National Contact Points go in providing this broad information about the national legal processes." PRE Max Consortium, *Patients' Rights in the European Union – Mapping exercise – Final Report*, European Commission [March, 2016], p. 29, ISBN 978-92-79-66960-6.

overcoming the imperfections in different jurisdictions. Standardization of the content of the NCPs websites, their volume of information, their applications for receiving information are only a few of the proposals made through the years.

In this regard, after ceaseless efforts, in 2018 Guiding principles and indicators for good practices of the NCPs[7] were created. These are the principles of visibility, accessibility, transparency, inclusion, etc. This is one promising beginning which was developed in a Resolution from 12 February 2019 of the European Parliament for the implementation of the Directive.[8] The Commission and the patients' organizations are invited to cooperate and act in order to create guiding principles for additional facilitation and betterment of the ways for systematic exchange of information and practices in order to create harmonized, easy and patient oriented procedures, forms and handbooks and to establish a connection between the NCPs, the sources of information and the expertise available in the Member States.

In the same resolution an attempt is made to overcome the language barrier by explicitly underlining the necessity of „multiple languages", the providing of user-friendly, electronically accessible and barrier-free information to the patients.

After the analysis of the Bulgarian legislation, regulating the field of cross-border healthcare and more precisely the approach to establishing a NCP, it can be seen in the first five years of the Directive's transposition that the national legislation is not precise and the Bulgarian State was not diligent and attentive in the creation of the regulation.

In conclusion the major and decisive role is the one of the NCPs. They should function as a „gateway rather than a gatekeeper in healthcare"[9], but at the same time we should not forget the main role of the NCPs, namely to exercise their functions to facilitate the patients in all stages of the process accessing cross-border healthcare in the EU, stipulated in the Directive, and not to promote it.[10]

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[7] Lotte van de Steeg, Kim Weistra and others, *Study on cross-border health services: enhancing information provision to patients- Annexxes – Final Report*, Ecorys, KU LEUVEN and GfK [June, 2018], Annex A, p.9.

[8] European Parliament Resolution of 12 February 2019 on the implementation of the Cross-Border Healthcare Directive (2018/2108(INI))
https://ec.europa.eu/health/sites/health/files/cross_border_care/docs/ev_20190521_co02_en.pdf

[9] Ibid 43, p.7.

[10] Ibid 35.