

PUBLIC SUPPORT FOR LARGE COMPANIES TO PREVENT THE EFFECTS OF THE COVID-19 PANDEMIC – STUDY BASED ON THE EXAMPLE OF THE GUARANTEE OF THE PLG FGP GUARANTEE LINE – LEGAL AND ECONOMIC ASPECTS

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PUBLIC SUPPORT FOR LARGE COMPANIES TO PREVENT THE EFFECTS OF THE COVID-19 PANDEMIC – STUDY BASED ON THE EXAMPLE OF THE GUARANTEE OF THE PLG FGP GUARANTEE LINE – LEGAL AND ECONOMIC ASPECTS

Abstract

The purpose of the article/hypothesis: The purpose of the article is to determine whether, taking into account the current legal framework determining the state role in the economy, it is advisable to support large enterprises in relation to preventing the effects of the COVID-19 pandemic. The analysis will be conducted based on one of the types of guarantees - PLG FGP guarantee line.

Methodology: In order to achieve the assumed goals, the analysis was based on non-reactive research, consisting in the assessment of available information. It included studies of normative acts, official statistical data and industry reports and analyses. Two basic research methods were used, namely legal dogmatic and comparative analyses.

Results of the research: Based on the conducted research, it can be concluded that taking into account the characteristics of economic difficulties resulting from the COVID-19 pandemic (i.e. a decrease in demand for goods and services, reduced mobility of the population, limited supply caused by disruption of supply chains and absence of employees at the workplace), it is justified to support sector of large enterprises, because these problems concern both the SME sector and large enterprises to a similar extent. However, it is reasonable to direct the aid because financing was also used by enterprises that were not affected by the crisis.

Keywords: large enterprises, Covid-19 pandemic, public support, SME sector, guarantee.

JEL Class: K20, M20.

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INTRODUCTION

Financial support for enterprises with the use of public funds is an obvious form of activity of the state and its authorities. This is due to the fact that it is related to the intervention of the state apparatus in economic relations, which in the current socio-economic system are regulated by market forces. Free market, in which, as a rule, the state does not interfere, is one of the pillars of the social market economy, which according to the Constitution of the Republic of Poland (Journal of Laws of 1997, No. 78, item 483, as amended), is the economic system of Poland (Brzuszczyk, 2020: 14). In accordance with the above, support for entrepreneurship from public funds is implemented as a derogation from the general rule prohibiting the provision of such aid.

The indicated mechanisms on the normative basis have also been expressed at the level of European Union (EU) law in Art. 107 of the Treaty on the Functioning of the European Union (Official Journal of the European Union of 30.03.2010, C 83, p. 49). According to this document aid granted by a Member State or using state resources in any form distorts or threatens to distort competition by favoring certain enterprises and is, in principle, incompatible with the internal market to the extent that it affects trade between Member States. Normative acts that are *lex specialis* in relation to the aforementioned regulation are, for example, Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain types of aid compatible with the internal market pursuant to Articles 107 and 108 of the Treaty (Official Journal of the EU of 26.6.2014, L 187, p. 1), and Commission Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (Journal device EU of 24/12/2013, L 352, p. 1). Therefore, it should be considered whether the support of large enterprises in connection with the prevention of the effects of the COVID-19 pandemic meets the conditions for the admissibility of such support.

The basic research goal of the work is to determine whether in the current legal system (in the context of the social market economy) it is economically justified to finance the large enterprise sector. The research problem will be analyzed based on one type of guarantee, i.e., PLG FGP guarantee line. With the research problem formulated in this way, the following research thesis was adopted: Taking into account the conditions of the economic environment of enterprises – in particular the COVID-19 pandemic – the paradigms of supporting enterprises from public funds have changed, therefore it is justified to finance the sector of large enterprises in selected economic areas. To achieve the assumed goals, specific problems were formulated:

- Is it possible to finance large enterprises in the social economic market?
- What are the conditions for financing large enterprises?

- Do the terms of the PLG FGP guarantee line justify financing large enterprises?

The adopted structure of the work and the research methodology used are a consequence of the adopted goals and thesis. To achieve the assumed goals, the analysis of the identified problems was based on non-reactive research, consisting in the assessment of available information. It included studies of normative acts and official statistical data along with industry reports and analyses.

1. SUPPORT FOR THE DEVELOPMENT OF ENTREPRENEURSHIP BEFORE THE OUTBREAK OF THE COVID-19 PANDEMIC

In the social market economy (Müller-Armack, 1978), state intervention in market processes by supporting selected enterprises can only take place in a justified situation and must meet certain conditions (Kosikowski and Ruśkowski, 2008: 249). It is assumed that state expenditure in this respect should, in particular, take into account the applicable provisions of law; be justified by the socio-economic policy of the state; be rational by using appropriate planning methods and be effective (Owsiak, 2005: 233). Therefore, when assessing the admissibility of public support for selected groups of enterprises, it is necessary to specify the determinants that justify such support. Such a determinant may be the size of the enterprise, but also the industry in which it conducts business activity or its organizational and legal form.

Before the outbreak of the COVID-19 pandemic, the rules governing the admissibility of state aid were set out in two fundamental normative acts, i.e., the already cited Regulation 651/2014 and Regulation 1407/2013. Regulation 1407/2013 does not diversify the legal situation of enterprises due to size or area of conducted activity and refers to the amount of aid granted, i.e., it allows for aid in an amount not threatening the infringement of competition mechanisms, the so-called *de minimis* aid. However, in accordance with Regulation 651/2014, after meeting the conditions set out in the regulation, it is allowed to grant:

- regional aid;
- aid for SMEs' access to finance;
- aid for research, development and innovation activities;
- training aid;
- aid for disadvantaged workers and workers with disabilities;
- aid for environmental protection;
- aid to make good the damage caused by certain natural disasters;
- aid of a social nature in the field of transport for inhabitants of remote regions;
- aid for broadband infrastructure;

- aid for culture and heritage conservation;
- aid for sports infrastructure and multifunctional recreational infrastructure;
- aid for local infrastructure.

Support for the SME sector plays a special role in public support for entrepreneurship. This is due to the fact that the impact of SMEs on the growth and development of market economies is significant. Enterprises belonging to the SME sector play a special role in the economy of most countries, in 2010 over 95% of enterprises in the world were enterprises belonging to the group of micro, small and medium-sized enterprises, 60% of private sector employees were employed in enterprises of this group (Ayyagari et al., 2011).

Considering the above, before the outbreak of the COVID-19 pandemic, public support for large enterprises was acceptable. However, they had to meet the requirements of Regulation 651/2014, which means that such aid concerned only strictly defined areas – often associated with innovation activities (Szymańska, 2008: 79). In economic practice, support for large enterprises accounted for a small share in the state's entrepreneurship support policy and the main aid programs concerned the SME sector.

2. COVID-19 PANDEMIC AND ITS IMPACT ON THE POLICY OF PUBLIC SUPPORT FOR ENTREPRENEURS

The COVID-19 pandemic (from Coronavirus Disease 2019), an acute infectious respiratory disease caused by infection with the SARS-CoV-2 virus, has had a negative impact on the economies of individual countries around the world. As a consequence, decisions were made to protect the health and life of citizens by limiting the spread of the virus. The result of these decisions was a decrease in demand for goods and services, limiting the mobility of the population or limiting the supply caused by the disruption of supply chains and the absence of employees at the workplace. Uncertainty as to the further development of the situation translated into a reduction in the investment plans of entrepreneurs and a significant reduction in their financial liquidity.

From the point of view of assessing the admissibility of public support for the large enterprise sector, it is necessary to analyze the impact of measures aimed at limiting the spread of the virus on the activities of enterprises, taking into account their size. The most important effects of the pandemic that affected the conduct of business by entrepreneurs include:

- 1) decrease in demand for goods and services,
- 2) limiting the mobility of the population,

- 3) imitation of supply caused by the disruption of supply chains and the absence of employees at the workplace,
- 4) deterioration of liquidity of enterprises.

The decline in demand for goods and services is caused by several factors. The most important ones include administrative orders related to limiting the transmission of the virus and the state of uncertainty of consumers who, for fear of losing their source of income, do not decide to buy new goods and services. According to the data of the Central Statistical Office, retail sales in April 2020 decreased by 22,9% compared to the corresponding month of 2019. From the point of view of assessing the admissibility of selective support for enterprises, the structure of retail sales decline is particularly important. In April 2020, the largest decrease in sales was recorded in the "textiles, clothing, footwear" group (63,4%), a significant decrease in sales was also reported by entities trading in motor vehicles, motorcycles and their parts (by 54,4%) and solid fuels, liquid and gas (by 32,9%). On the other hand, a lower decrease in sales was observed in the "food, beverages and tobacco products" group (by 14,9%). On the basis of the data quoted, it can be assumed that the decrease in demand affected not only enterprises from the SME sector, it can even be assumed that the decrease in demand affected industries in which large enterprises have a significant share in production (e.g. companies producing motor vehicles or fuels).

Another effect of fighting the pandemic was limiting the mobility of the population. Industries most affected in this respect were primarily passenger transport companies, such as airlines, travel agencies, and rail and road transport companies. According to the data of the Polish Air Navigation Services Agency, the decrease in the number of flights on individual days of April 2020 was about 90% compared to the same month of 2019 (www1). It can be assumed that the limitation of population mobility had a similar impact on the functioning of both large enterprises and those from the SME sector. There are no objective reasons to assume that this effect of the pandemic was more severe for enterprises from the SME sector.

The third analyzed impact of the pandemic was a reduction in supply due to the disruption of supply chains and the absence of workers from the workplace. In this case, it is also difficult to find a link between the effect of the pandemic and the size of the company. What is more, there is no doubt that the disruption of supply chains has a significant impact on large enterprises, which more often than SMEs operate in innovative and technologically advanced industries (e.g., production of drugs and pharmaceutical substances, production of computers, electronic and optical products) and therefore their activity is often based on processed goods and services (PARP – Polska Agencja Rozwoju Przedsiębiorczości, 2019).

The last analyzed effect of the pandemic is the deterioration of the financial liquidity of enterprises, understood as the ability to pay their liabilities on an ongoing basis. The aforementioned effects of fighting the pandemic undoubtedly affected the financial flows of enterprises. Limited demand and supply meant that enterprises could have problems with settling previously contracted liabilities. In this case, the industry in which the company operated had an impact on financial liquidity, its multiplicity was of secondary importance. One can only assume that large enterprises, having better creditworthiness, could more easily obtain external financing. However, confirmation of this hypothesis would require an extended economic analysis.

To sum up this part of the analysis, it should be emphasized that taking into account the presented features of the state's actions aimed at counteracting the spread of the COVID-19 pandemic, it should be clearly assumed that these actions brought similar effects to both large enterprises and enterprises from the SME sector. This means that the size of the enterprise was not a determinant by means of which the economic situation of enterprises could be differentiated in normative terms. Such a determinant could be, for example, the industry in which the enterprise conducted business activity, e.g., enterprises from the tourism, catering or hotel industry, and at the opposite extreme, e.g., enterprises operating in the e-commerce industry. Therefore, it is justified to support large enterprises in the context of counteracting the effects of the COVID-19 pandemic. From the juridical point of view, this thesis may be confirmed by the catalog of entities entitled to state aid, expressed in the Commission Communication "Temporary framework of state aid measures to support the economy in the context of the ongoing COVID-19 epidemic" (2020/C 91 I/01), in which state aid to large enterprises was explicitly allowed. It should be noted that this communication is an exception to the previously adopted policy of public support for the development of enterprises and is a positive reaction of the legislator to the dynamically changing economic environment in connection with the COVID-19 pandemic.

3. SUPPORT PROGRAMS FOR LARGE ENTERPRISES - PLG FGP GUARANTEE LINE

In order to mitigate the negative effects of the SARS-CoV-2 epidemic on the functioning of enterprises, Bank Gospodarstwa Krajowego (BGK) launched the Liquidity Guarantee Fund. It was the first aid program created in Poland in accordance with the "Temporary framework of state aid measures to support the economy in the context of the ongoing COVID-19 epidemic" approved by the European Commission. The establishment of the Liquidity Guarantee Fund (FGP) was possible on the basis of the Act of 31 March 2020 amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19,

other infectious diseases and crisis situations caused by them, and some other acts (Journal of Laws item 568, as amended). This act introduced credit guarantees for medium and large companies. Another Act of June 19, 2020 on subsidies to the interest rate of bank loans granted to entrepreneurs affected by COVID-19, and on simplified procedures for approval of the arrangement due to the occurrence of COVID-19 (Journal of Laws, item 1086) enabled the introduction of guarantees for repayment of factoring limits intended for entrepreneurs belonging to the category of SMEs and are large enterprises. Amendment to the Act of March 2, 2020, on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws, item 374, as amended), i.e., the Act of October 7, 2020. on amending certain acts in order to counteract the socio-economic effects of COVID-19 (Journal of Laws, item 1747), introduced the possibility of granting individual sureties or loan repayment guarantees in particularly justified cases, mainly due to important economic or social interest or other obligation under the FGP (Zajac and Kowalski, 2022).

The fund was supplied with domestic funds from credits, loans and bonds issued by BGK. The purpose of the Fund was to cover the costs and expenses related to BGK's granting guarantees for the repayment of loans taken out by medium-sized and large enterprises, including, inter alia, disbursement of guarantees. Loan guarantees granted under the FGP were intended to secure loans granted to enterprises in order to ensure their financial liquidity. Loans secured by a liquidity guarantee may be granted to enterprises that meet the criteria of a medium-sized or large enterprise. The liquidity need was verified on the basis of the statement of the enterprise applying for financing submitted in the Guarantee Application. With the proviso that this statement is not contradictory to the financial and accounting documents submitted with the loan application presented to the financing bank. In the case of the FGP guarantee, a kind of deviation from the standard (standard requirements are considered to be the requirements for entrepreneurs and similar guarantee programs operating before the outbreak of the pandemic) conditions that the beneficiaries of the guarantee had to meet. The derogation consisted in the fact that the conditions excluding the beneficiaries from obtaining the guarantee, such as: no arrears in taxes to the Tax Office and ZUS/KRUS contributions, no negative entry in the crediting bank's systems and in the BR or BIK system, as well as no terminated credit exposure and no exposure classified as non-performing and no overdue debt with the Lending Bank for more than 30 days in the amount above PLN 3.000, occurred as at the date of submitting the application, they did not eliminate the enterprise from obtaining the guarantee if they did not exist as of February 1, 2020 or December 31, 2019 in the case of a condition of non-termination or a credit exposure at risk. The basic guarantee parameters are presented in the table below.

Table 1. Parameters of guarantees granted under the Liquidity Guarantee Fund

Parameter	Type of loan eligible for guarantee	Height guarantee	Amount guarantee	Warranty period	Guarantee fee
Liquidity Guarantee	working capital loan	up to 80 % of the loan capital	max. 200 million. PLN	up to 27 months	0,25% to 1,15%

Source: own study based on Conditions for obtaining a loan repayment guarantee from Bank Gospodarstwa Krajowego under the portfolio guarantee line PLG FGP.

Originally, guarantees under the FGP were to be granted until December 31, 2020, but this date was changed several times and the final date for granting guarantees was June 30, 2022. The FGP guarantee could be a secured working capital loan (non-revolving or renewable, including in the form of a multi-purpose facility) granted in accordance with the rules of the lending bank, intended for financing current operations, along with investment expenditures contributing to the improvement of the borrower's financial liquidity. The period for which the credit is granted may not be longer than 24 months, the credit may not be used to repay another credit or loan, nor may it be secured by another guarantee or surety granted by BGK.

As mentioned here, the maximum loan amount that may be secured by the FGP guarantee is PLN 250 million, with the proviso, however, that in the case of individual enterprises, it may not exceed twice the sum of employees' annual salaries for 2019, or for the last year for which data is available or 25% of the total turnover of enterprises, or a duly justified amount to cover liquidity needs of an enterprise for a period not longer than 18 months in case of medium-sized enterprises and 12 months in case of large enterprises. If an enterprise has several loans secured by a guarantee granted from the Liquidity Guarantee Fund, their total amount may not exceed PLN 250 million or the amount specified above.

The largest number of loans secured with a liquidity guarantee was granted in the third and fourth quarters of 2020, i.e., during the period of significant restrictions. The second quarter of 2020 was the first quarter of guarantee distribution, financial institutions needed time to implement it, including adjusting procedures and processes.

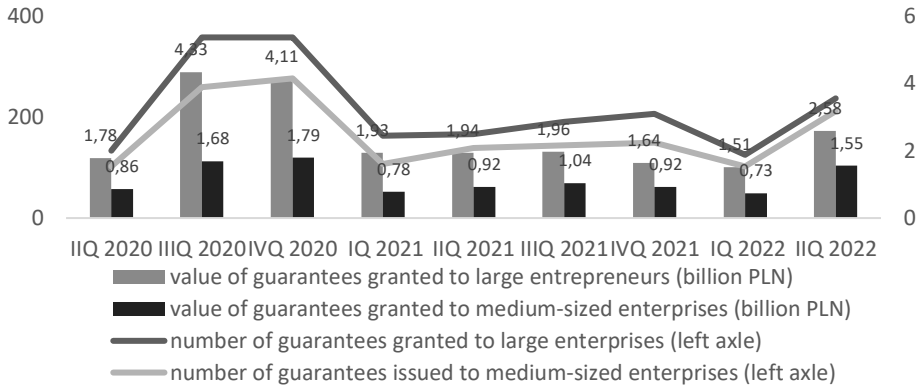


Chart 1. Value and number of FGP guarantees granted to medium and large enterprises

Source: own study based on BGK data.

At the beginning of the FGP guarantee distribution period, the average amount of guarantees granted to large enterprises was over PLN 13.4 million, and in the case of medium-sized enterprises it was over PLN 8.4 million. As the program continued, these values decreased, which could have been due to the approach of financial institutions to risk, which initially hedged only the largest transactions, but as the duration of the pandemic extended, they also secured lower amounts out of concern for the security of financing. Another reason could be the guarantee process itself, which has become more and more accessible or the needs of companies.

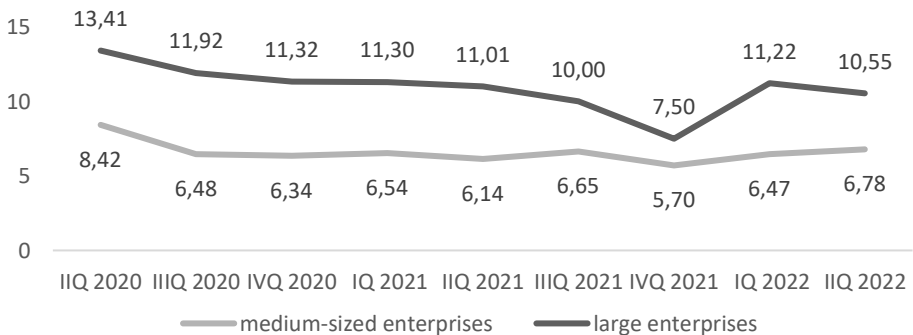


Chart 2. Average amount of FGP guarantees granted to medium and large enterprises.

Source: own study based on BGK data.

In the first quarter of 2022, an increase in the average amount of guarantees granted is similarly observed, which could have resulted from the post-pandemic recovery and greater needs of enterprises.

The sectors which during the period of distributing FGP guarantees accounted for the largest share in terms of value of all guarantees granted were: wholesale trade, retail trade, construction works related to erection of buildings, production of foodstuffs, production of finished metal products. The value of guarantees granted to these sectors accounted for nearly 50% of the total value of FGP guarantees granted in this period.

Table 2. Industries with the largest share in value of FGP guarantees granted in 2Q2020-2Q2022

Industry (PKD division)	Share in providing the value of guarantees granted (%)	Collection of guarantees granted (PLN million)
Wholesale (46)	18,70%	5,99
Retail (47)	9,14%	2,93
Building construction works (41)	8,82%	2,82
Food production (10)	8,00%	2,56
Production of finished metal products (25)	4,77%	1,52
Works related to the construction of civil engineering facilities (42)	4,08%	1,30
Metal production (24)	4,02%	1,29
Production of motor vehicles (29)	3,21%	1,02
The remaining	39,26%	12,58

Source: own study based on BGK data.

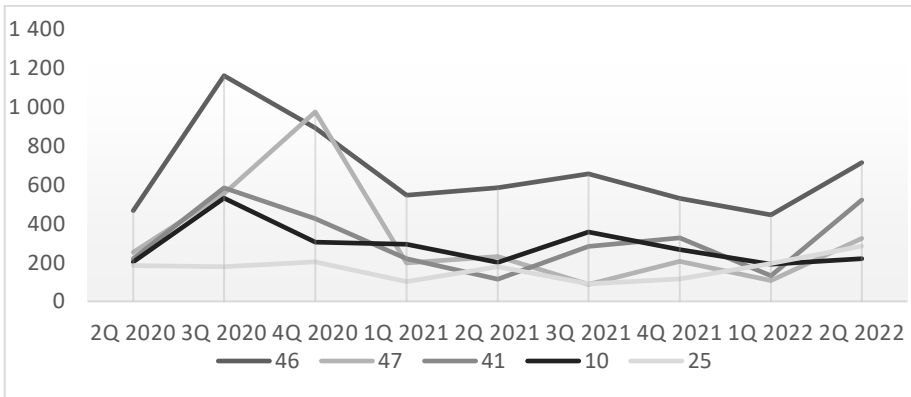


Chart 3. The value of FGP guarantees granted (PLN million) in selected sections of the CAC in the period 2Q2020-2Q2022

Source: own study based on BGK data.

In the second quarter of 2020, in four out of five PKD departments that are the largest beneficiaries of the FGP guarantee, a decrease in revenue dynamics can be observed. The largest decrease of 11% can be noticed in department 25 dealing with the production of finished metal products, the next one in terms of the value of the decrease in revenues was wholesale and retail. The reasons for this state of affairs were the restrictions introduced, but also, especially in the case of division 25, broken supply chains. In the case of section 41, revenues continued to show positive dynamics. In the third quarter of 2020, negative dynamics is also observed in four out of five analyzed divisions, only division 10 shows an increase in revenue compared to 2019. In the last quarter of 2020, only division 41 was characterized by negative revenue dynamics. From 2021, the revenues of the analyzed departments were characterized by positive dynamics.

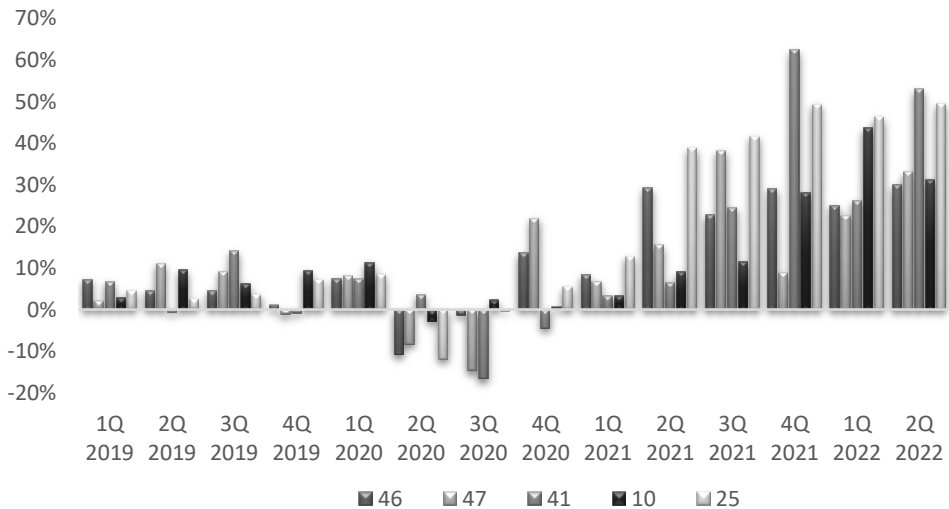


Chart 4. Revenue dynamics (y/y) in selected sections of PKD in the period 1Q2019-2Q2022

Source: own study based on BGK data.

The above data confirms that enterprises from the PKD departments that became the main beneficiary of the FGP guarantee in 2Q, 3Q and partly 4Q 2020 struggled with a significant decrease in revenue growth, therefore the use of public aid by these enterprises aimed at mitigating the negative effects of the COVID-19 pandemic should be considered justified.

When creating programs to support enterprises during the COVID-19 pandemic, a decrease in their liquidity, understood as the ability to timely pay current liabilities, was defined as the effect of the pandemic on the finances of enterprises. The value of the current liquidity ratio is presented in the chart below. The current liquidity ratio allows to determine to what extent the company is able to cover its current liabilities with liquid assets, i.e., current assets.

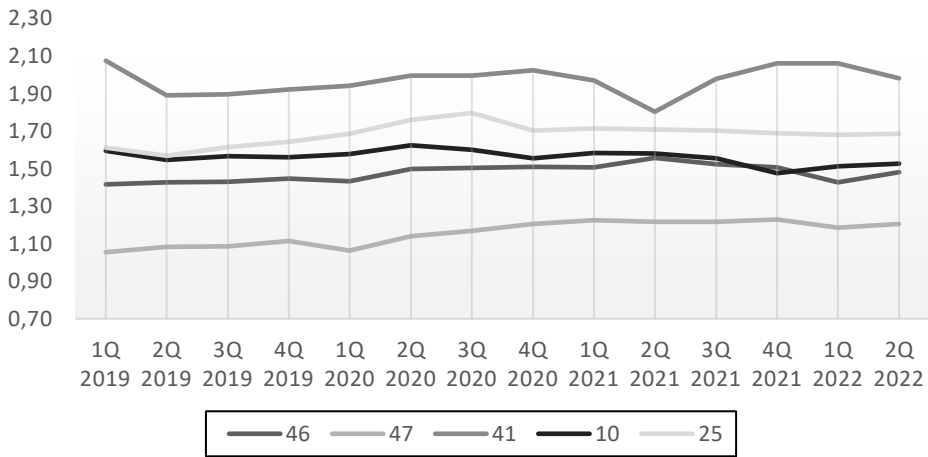


Chart 5. The value of the current liquidity ratio in selected sections of PKD in the period 1Q2019-2Q2022

Source: own study based on BGK data.

The levels of the current liquidity ratio may differ depending on the industry in which the enterprise operates. It is worth noting, however, that in 2Q 2020, which was the first quarter of the Covid restrictions in force, an increase in the value of the current liquidity ratio was observed in all analyzed NACE sections. In 3Q 2022, liquidity decreased only in section 10. Which means that the restrictions did not contribute to a significant decrease in the liquidity of enterprises belonging to the analyzed five sections of the CAC.

Chart 6 presents the average value of investment outlays of enterprises operating in the analyzed sectors of the CAC. In the case of investment outlays, the cyclicity of this measure is visible, probably resulting from the company's accounting year, the strategy of managing financial resources or the desire for tax optimisation. Thus, in this case, it is appropriate to compare the value of the measure year-on-year. In 2Q 2020, from the analyzed industries, only section 41 shows an increase (by 165%) in investment outlays per enterprise compared to the same period of 2019. In the other analyzed sections (46, 47, 10, 25) we observe a decrease in the value of investment outlays per enterprise in the first quarter of the restrictions. This means that, as a result of the pandemic, these companies limited their investment activities for the fear of uncertain future. The situation was different in the sector involved in the performance of construction works related to the erection of buildings, probably enterprises of that sector recognized that the restrictions may result in an increase of interest in their offer.

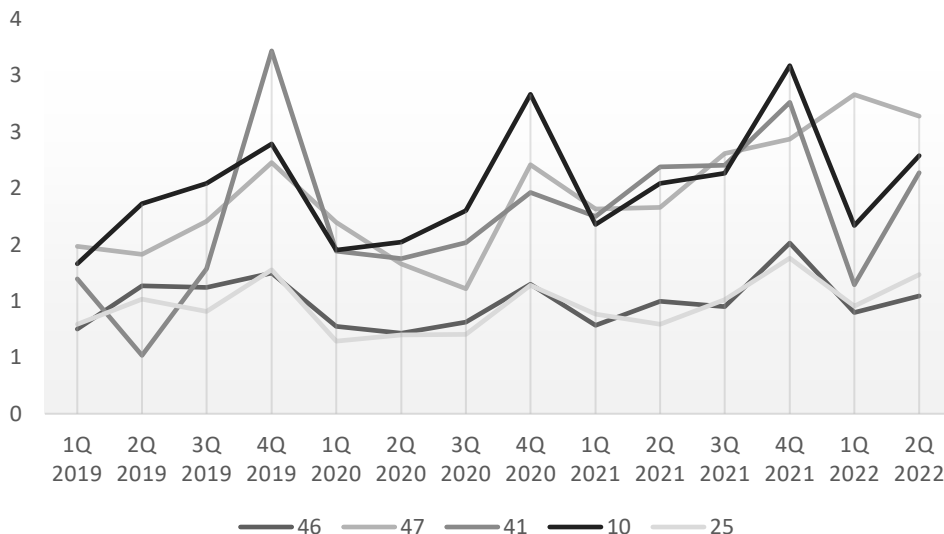


Chart 6. Capital expenditures per enterprise (PLN million) in selected NACE sections in the period 1Q2019-2Q2022

Source: own study based on BGK data.

CONCLUSIONS

Summing up the analyzes carried out, it should be first emphasized that during the Covid-19 pandemic, the conditions of the economic environment changed significantly. Before the pandemics, the main factor justifying the support for enterprises from public funds was help for companies that were just developing (e.g., the SME sector) or financing activities that were particularly important from the economic point of view (e.g., innovative investments). However, the pandemic has changed the economic environment for enterprises. Its most important effects include: a decrease in demand for goods and services, reduced mobility of the population, limited supply caused by disruption of supply chains and absence of employees at the workplace.

These factors affected enterprises regardless of their size, therefore it was reasonable to introduce support programs for large enterprises.

One of the first public programs under which large enterprises could receive support was the PLG FGP portfolio guarantee line. After analyzing this program, it can be concluded that its beneficiaries were enterprises from various industries. For example, the companies that most willingly used this program operated in the commercial or food industries. These industries were relatively less affected by

the pandemic because, unlike other economic areas, they were not completely closed. Therefore, it seems reasonable to direct aid to those enterprises that operate in industries particularly affected by the Covid-19 pandemic, e.g., tourism, entertainment, restaurant or transport industries.

The adopted conclusions should serve in other similar situations in the future. We must move away from the paradigm according to which state financing of entrepreneurship is justified only by the size of the enterprise. When designing support programs, a broader catalog of premises justifying such aid should be taken into account – which result from the type of difficulties encountered by a given group of enterprises.

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