BALTIC JOURNAL OF LAW & POLITICS
A Journal of Vytautas Magnus University
VOLUME 16, NUMBER 2 (2023)
ISSN 2029-0454

Cit.: *Baltic Journal of Law & Politics* 16:2 (2023): 194–210
https://content.sciendo.com/view/journals/bjlp/bjlp-overview.xml
DOI: 10.2478/bjlp-2023-0020

THE CONCEPT OF CORRUPTION IN THE HEALTHCARE SECTOR: A PRACTICAL ANALYSIS OF THEORETICAL ASPECTS AND THE LITHUANIAN CONTEXT

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Received: Septemer 4, 2023; reviews: 2; accepted: January 31, 2024.

ABSTRACT

Corruption in the healthcare sector is one of the concepts for which it is difficult to find one universal definition or to list all possible forms. However, the scientific literature presents both various definitions of corruption and typologies of forms of corruption in healthcare system. But in the presence of great diversity, the choice of one particular classification, without evaluating it in the context of other classifications, poses the risk that certain corrupt acts may not fall under the concept of corruption. As a result, this study presents the most important elements of the concept of corruption in the healthcare sector and proposes a corruption identification plan that would allow for the identification of more complex cases of corruption in the healthcare system, while at the same time helping to select more appropriate prevention measures. The articles analyses how corruption and the forms of corruption in healthcare system are described in legal

acts of selected Lithuanian healthcare institutions, in order to determine the practical relevance of improving the identification of corruption in the healthcare sector. Having determined that there is a considerable variety of definitions in the legal acts of institutions, as well as minor gaps, it can be concluded that there is a need to develop the concept of corruption in the healthcare sector. Thus, concluding recommendations include not only further attention to the issues involved, but determining simpler and clearer methods of identifying corruption in the healthcare system.

KEYWORDS

Corruption, Healthcare, Lithuanian healthcare sector, Law and Medicine.

NOTE

This project has received funding from the Research Council of Lithuania (LMTLT), agreement No P-ST-22-117 "Korupcija medicinoje: samprata, požymiai ir prevencija" (Corruption in Medicine: Concept, Signs, and Prevention).

INTRODUCTION

All states of the world, despite being different, have certain characteristics in common. Unfortunately, one such negative feature is corruption. Although levels of corruption are different – some countries have lower while others have higher level of corruption – there is no state that is entirely free of corruption. A corruption-free state is a utopian idea, because a society without corruption is as seemingly impossible as a society without crime in general[1]. But this does not mean that there is no need to fight corruption and that its level cannot be reduced. On the contrary, fighting corruption is a necessary tool reducing its occurrence.

The medical sector is not an exception in this regard. Based on data from 2022, the healthcare system is considered the most corrupt sector in Lithuania.[2] Clearly there is no shortage of need to fight and reduce corruption. However, both in the theory and practice of corruption prevention, a problem arises of what should be considered corruption, how to define it, and how to distinguish corrupt acts from other violations. This problem is currently being tackled in various ways. There are many different classifications of forms of corruption in healthcare sector.[3] With such diversity, relying on just one typology is insufficient to identify forms of corruption in the healthcare system, as some typologies exclude certain forms found in other classifications. Accordingly, this article uses descriptive, analytic, and comparative methods to draw attention to the systematic application of different typologies in the identification of corruption in the healthcare sector and to propose a corruption identification plan that would help to identify corruption more easily and effectively.

The article also investigates whether there is a practical need to clarify the definition of corruption and the classification of forms of corruption, since one of the ways to reduce corruption is to define what exactly will be fought against[4]. For that purpose, the presence, differences, and extent of the definition of corruption and the forms of corruption in the healthcare system presented in the legal acts of selected Lithuanian healthcare institutions are studied (all translations from Lithuanian to English are done by the authors, except hospital's names and the "Law on Prevention of Corruption of the Republic of Lithuania" as well as the "Program for the Prevention of Corruption in the Healthcare System for the Years 2020–2022").

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1 Bo Rothstein, "Fighting Systemic Corruption; the Indirect Strategy," *Daedalus* Vol. 147, No. 3 (2018): 37.

2 European Commission, *Corruption* Vol. 523 (Luxembourg: Publications Office, 2022), 23.

3 Taryn Vian, "Anti-Corruption, Transparency and Accountability in Health: Concepts, Frameworks, and Approaches," *Global Health Action* Vol. 13, No. sup1 (February 2020): 7–8 // DOI:10.1080/16549716.2019.1694744; European Healthcare Fraud and Corruption Network, "The EHFCN Waste Typology Matrix©" // https://www.ehfcn.org/what-is-fraud/ehfcn-waste-typology-matrix/; European Commission, *Study on Corruption in the Healthcare Sector* (Luxembourg: Publications Office, 2013), 47–92; Rakhal Gaitonde et al., "Interventions to Reduce Corruption in the Health Sector*," Review* Vol. 8 (Chichester, UK: John Wiley & Sons, Ltd, 2016), 48–49; Tim K. Mackey, Taryn Vian and Jillian Kohler, "The Sustainable Development Goals as a Framework to Combat Health-Sector Corruption," *Bulletin of the World Health Organization* Vol. 96, No. 9 (September 2018): 635 // DOI:10.2471/BLT.18.209502; Subrata Chattopadhyay, "Corruption in Healthcare and Medicine: Why should Physicians and Bioethicists Care and what should they do?" *Indian Journal of Medical Ethics* Vol. 10, No. 3 (2013): 154 // DOI:10.20529/IJME.2013.049; Karen Hussmann, *Addressing Corruption in the Health Sector: Securing Equitable Access to Health Care for Everyone* (Bergen: Chr. Michelsen Institute, 2011), 26; Till Bruckner, *The Ignored Pandemic: How Corruption in Healthcare Service Delivery Threatens Universal Health Coverage* (Transparency International, 2019), 5 // https://ti-health.org/wp-content/uploads/2019/03/IgnoredPandemic-WEB-v3.pdf

4 Kathleen Montgomery, "Response—Corruption, Trust, and Professional Regulation," *Journal of Bioethical Inquiry* Vol. 19, No. 1 (March 2022): 129 // DOI:10.1007/s11673-021-10149-5

1. THE DEFINITION OF CORRUPTION

Why is there a need to define corruption in the first place? The following answer was given by J. C. Kohler: "in Jacobellis v. Ohio (1964), then United States Supreme Court Justice, Potter Stewart, stated 'I know it when I see it' with regards to what is hard core pornography. When identifying corruption, there is often the risk of adopting the same nebulous approach, as corruption is often not well defined, or may have different meanings depending on the cultural and institutional context."[5] Also, in order to deal with the manifestations of corruption, it is necessary to define what is being fought against.[6] Therefore, it follows that for an effective fight against corruption it is a must to establish the concept of corruption.

Subsequently, a second question arises: how should corruption be defined? Since corruption is a broad and ambiguous concept, "there is no single, universally-accepted definition of corruption"[7]. Nevertheless, there have been different approaches to write a unified definition for corruption[8]. Almost all definitions proposed by international organizations establish two common elements:

1) the abuse/misuse of public trust, power, authority, etc.;

2) improper private benefit (as a result of the first element).[9]

Other definitions go beyond these elements to include other aspects of corruption.[10] This shows that perhaps it is more accurate to talk about corruption not by trying to find a single definition for it, but by distinguishing features of corruption that, once identified, can be used to judge whether a certain act was corruption or not. This can be illustrated by the attempt of Gaitonde et al. to extract the characteristic features of corruption from various definitions.[11]

The common features of corruption are:

- The person who abuses power may directly commit the abuse or may be complicit in its abuse.
- It can be committed by people who are either in private or public positions of power.
- A position of power or authority may be either entrusted by the formal systems of governance or by social/cultural systems.
- The abuse may be for the benefit of oneself, a group, an organisation, a party, or others close to those who abuse their power.
- Benefits can be financial, material or non-material (such as furtherance of political or professional ambition).
- The abuse violates the rights of other individuals or groups.[12]

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5 N. Melgar, M. Rossi, T. W. Smith, "The perception of corruption," *Int J Public Opin Res*. Vol. 22, No. 1 (2010): 120–131; quoted in Jillian Clare Kohler, "I Know it when I See it: The Challenges of Addressing Corruption in Health Systems Comment on we Need to Talk about Corruption in Health Systems," *International Journal of Health Policy and Management* Vol. 8, No. 9 (September 2019): 563 // DOI:10.15171/ijhpm.2019.48

6 Kathleen Montgomery, *supra* note 4, 129.

7 Karen Hussmann, *supra* note 3, 6.

8 Rakhal Gaitonde et al., *supra* note 3, 47–48.

9 *Ibid.*

10 E.g., other definitions also include corruption in private sector or that the gain can also benefit other persons rather than agents themselves. Furthermore, there are definitions that emphasise the disadvantaging effect of corruption, as well as its conflict to public duties, while the definition by The Lectric Law Library's Lexicon (Lectric Law Library 2016) defines corruption as "an act done with an intent", implying that to determine whether a certain act is corruption, it is necessary to examine its motives (Rakhal Gaitonde et al., *supra* note 3, 47–48).

11 *Ibid.*

12 Rakhal Gaitonde et al., *supra* note 3, 6.

Thus, in distilled form, the essential elements of corruption are: 1) direct or complicit abuse of, 2) entrusted power related to public functions, 3) done in private or public sector, 4) when actor seeks not public but personal (in a broadest sense), 5) benefit of any kind, 6) undermining the rights of others. Using these elements, it could be easier to identify whether a certain case should be qualified as corruption.

2. TYPOLOGIES OF FORMS OF CORRUPTION IN HEALTHCARE SECTOR

Although the aforementioned features are helpful, corruption is still difficult to detect due to the great variety of its forms. The healthcare sector is no exception; therefore, classifying the forms of corruption in the healthcare system could make it easier to identify corruption in this area, and at the same time to fight it.

Transparency International (hereafter - TI) along with the general definition of corruption mentions: health sphere corruption. However, is is established only through examples rather than providing a definition itself.[13] This insinuates that corruption in the healthcare sector probably does not require its own definition and the general one can be applied to it. However, what makes corruption in the healthcare system distinct from corruption in other areas is its specific forms. Therefore, classification of various types of corruption in the healthcare sector are equally important to understand the concept.

There are various frameworks of corruption in healthcare system. For example, Vian presents six different classifications in her work.[14] Two of them (European Healthcare Fraud and Corruption Network (EHFCN) Waste Typology© and Corruption in the Health Sector Typology by the European Union (EU) selected "types of wrongdoing" as the main distinctive factor, while two others (Five Key Actors in the Health System model by Savedoff and Hussmann, Organisation for Economic Co-operation and Development (OECD) Integrity Violations Framework) chose "specific actors" as such feature.[15] The fifth framework (Typology of Individual and Institutional Corruption) focuses on the distinction between "individual abuse of power" and "corruption where institutions engage in activities".[16] The last framework made by Vian focuses on causes of corruption[17] (since the reasons of corruption fall outside the scope of this research, this framework will not be presented). Such diversity also raises the problem of harmonizing different typologies. However, in this work we will combine the essential elements of the main typologies and present a classification that unites them.

2.1. Frameworks of Individual and Institutional Corruption, Participating Actors, and Infringments in Healthcare Sector

The analysis begins with the 'actors' frameworks. Both typologies establish the same actors participating in corrupt activities, which are: government regulator, payer, drug/equipment/other suppliers, provider, and patients (Savedoff and Hussmann), and regulators, payers, suppliers/manufacturers, providers, and individuals (OECD).[18] Therefore, a suggestion could be made to refer only to OECD framework since it could be

13 *Ibid.,* 48.
14 Taryn Vian, *supra* note 3, 7–8.
15 *Ibid.,* 6.
16 *Ibid*.
17 *Ibid.*, 8.
18 *Ibid.*, 7.

regarded as having slightly broader approach than that of Savedoff and Hussmann because, e.g., it includes not only government but also private regulators, as well as manufacturers along suppliers, and individuals (not only patients).

A completely alternative typology is suggested by D. Thompson and later improved by G. Oliveira. This framework is perhaps the most complex as sometimes it is difficult to distinguish between individual and institutional corruption. Nevertheless, the main difference between them is how a benefit is related to the institution. "If a benefit does not serve the institution," then it is an example of individual corruption. But "if a benefit is directly useful to performing an institutional purpose," then it is institutional corruption.[19] Also, individual corruption "is deviation by the law", whereas institutional corruption "deviations are usually legal"[20]; however, equally undermining the principles of public service as individual corruption. Therefore, "not the law but the institutional purpose serves as the baseline for identification [of institutional corruption]"[21].

Another typology, made by European Healthcare Fraud and Corruption Network, distinguishes four forms of infringements (*not of corruption*) in the healthcare sector:

- *Errors*: unjustly obtaining a benefit of any nature by unintentionally breaking a rule or a guideline
- *Abuses*: unjustly obtaining a benefit of any nature by knowingly stretching a rule or guideline or by taking advantage of an absence of rule or guideline
- *Fraud*: illegally obtaining a benefit of any nature by intentionally breaking a rule
- *Corruption*: illegally obtaining a benefit of any nature by abuse of power with third party involvement.[22]

This typology is useful in two respects. Firstly, it distinguishes errors from actual acts of corruption. Secondly, it determines whether a particular act is of a corrupt nature by examining the involvement of a third party. Nevertheless, abuse of power is possible not only in illegal ways.[23] Moreover, as it will be presented below, certain forms of corruption can also hide under the categories of abuse and fraud. Therefore, this framework alone might not always answer whether a certain act is considered corruption. In search of an answer to this question, it is necessary to examine those typologies that analyse specific forms of corruption in the healthcare system.

2.2. Frameworks of Types of Corruption in Healthcare Sector

This article examines the typology proposed by the European Commission (hereafter – the EC typology) as the main one, while simultaneously presenting elements of other similar typologies that are not present in the EC typology in order to propose a

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19 Dennis F. Thompson, "Two concepts of corruption," *Edmond J Safra Center for Ethics* (2013): 3; quoted in Margit Sommersguter-Reichmann et al., "Individual and Institutional Corruption in European and US Healthcare: Overview and Link of various Corruption Typologies," *Applied Health Economics and Health Policy* Vol. 16, No. 3 (June 2018): 292 // DOI:10.1007/s40258-018-0386-6

20 Gustavo Maultasch de Oliveira, "Institutional Corruption as a problem of institutional design: a general framework," *Edmond J Safra Center for Ethics* (2014): 11; quoted in Margit Sommersguter-Reichmann et al., *supra* note 19.

21 Margit Sommersguter-Reichmann et al., *supra* note 19, 290.

22 European Healthcare Fraud and Corruption Network, "The EHFCN Waste Typology Matrix©" // https://www.ehfcn.org/what-is-fraud/ehfcn-waste-typology-matrix/. Font styles are copied directly from the source.

23 Graham Brooks et al., "Fraud, Error and Corruption in Healthcare: A Contribution from Criminology": 26; in: Misja Mikkers et al., eds., *Healthcare Fraud, Corruption and Waste in Europe* (The Hague, Netherlands: Eleven Publishers, 2017).

classification that includes as many forms as possible to make identification of corruption more detailed.

2.2.1. European Commission's Typology

The EC typology distinguishes six types of corruption in the healthcare sector: 1) bribery; 2) procurement corruption; 3) improper marketing relations; 4) misuse of (high-level) positions; 5) undue reimbursement claims; 6) fraud, embezzlement of medicines, medical devices.[24] Additionally a seventh form can be distinguished, which is: double practice[25]. This typology could be regarded as one of the most comprehensive typologies since most other similar typologies cover a narrower scope of corrupt acts.[26] A similar typology made by Transparency International (hereafter – TI) is also appreciated and referenced by scholars[27], but it only categorises the most common types of corruption in healthcare system. Therefore, the typology presented by the EC can be considered more universal. Consequently, it will be a basis for our proposed classification of forms of corruption.[28]

The first type of corruption in healthcare sector is bribery.[29] It is a very broad form of corruption which can often interrelate with other types of corruption (e.g., kickback payments are regarded as bribery[30] but mainly occur within procurement corruption or improper marketing relations). In principle, bribery corresponds to the general concept of corruption, as it is the receiving (passive bribery) or giving (active bribery) of any form of benefit[31].

Procurement corruption is the second type of corruption in healthcare. This type mainly involves two actors: industry and healthcare providers.[32] The field of public procurement is one of the least resistant to the risks of corruption in healthcare sector.[33] Therefore, this type of corruption in healthcare system should be given special attention.

The third type of corruption in healthcare sector – improper marketing relations – is somewhat similar to the second type. Nevertheless:

> a closer look at the cases that fall under the categories pharmaceutical and medical devices reveals that many of them are not specifically related to procurement. Corruption in the area of pharmaceuticals and medical devices can also be related to the registration of medicines and pharmacies, drug selection for 'positive lists' or the direct or indirect promotion of drugs or medical devices with physicians.[34]

This type covers all corrupt activities occurring in marketing relations that are not related anyhow to procurement process and, consequently, cannot be assigned to the second type.

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24 European Commission, 2013, *supra* note 3, 9.
25 Taryn Vian, *supra* note 3, 7.
26 Rakhal Gaitonde et al., *supra* note 3, 48–49; Tim K. Mackey, Taryn Vian and Jillian Kohler, *supra* note 3, 635; Subrata Chattopadhyay, *supra* note 3, 154; Karen Hussmann, *supra* note 3, 26.
27 Patricia J. Garcia, "Corruption in Global Health: The Open Secret," *The Lancet (British Edition)* Vol. 394, No. 10214 (December 2019): 2121 // DOI:10.1016/S0140-6736(19)32527-9
28 A more extensive description of these forms can be found in European Commission, 2013, *supra* note 3, 47–92; Brigitte Slot et al., *Updated Study on Corruption in the Healthcare Sector* (Luxembourg: Publications Office, 2017), 145–148.
29 European Commission, 2013, *supra* note 3, 53.
30 *Ibid.,* 53.
31 *Ibid.,* 17–18.
32 *Ibid.*, 65.
33 OECD, *Preventing Corruption in Public Procurement* (OECD – Organisation for Economic Co-operation and Development, 2016), 5 // http://www.oecd.org/gov/ethics/Corruption-Public-Procurement-Brochure.pdf
34 European Commission, 2013, *supra* note 3, 49.

The fourth type is the misuse of (high-level) positions (conflicts of interest). However, it is also claimed that "conflict of interest underlies all acts of corruption."[35] Due to that, this type of corruption can often be intertwined with others. Also, this type is often associated with lobbying and influence peddling.[36] Thus, it is a broad type of corruption within the healthcare system. Nevertheless, for the sake of simplicity, its concept can also be understood considering the general features of corruption, namely, the abuse/misuse of entrusted power. After identifying these two features in a particular case, it is possible next to consider the existence of this form of corruption.

The fifth type is undue reimbursement claims (fraud)[37]. This type can manifest itself in many diverse ways, but for a better understanding, two examples of its subtypes can be given:

- up-coding (defined as charging a service that was actually not used or unnecessary) and

- unbundling (i.e. the separate billing of bundled procedures to maximise reimbursement)[38]

This form includes all those cases of fraud where the healthcare institution and/or its employees unjustly, by means of deception, demand from patients to pay for services that actually were not required or were not even performed, as well as all other similar cases in which the institution/employees seek to make an illegal profit.[39]

The last type identified by the EC is fraud and embezzlement of medicines and medical devices. It also has subtypes:

- Sale of public or prepaid medicines for private gain

- Sale of counterfeit medicines

- Use of publicly owned or financed devices or facilities for private gain[40]

Although this type is independent in terms of misappropriation of assets, it is similar to the fifth type in terms of fraud. However, these types can be distinguished based on which entity is harmed. For the fifth type, the victims are usually patients. Meanwhile, in the case of the sixth type, not only patients (e.g., in the case of the sale of counterfeit drugs), but also the healthcare institution, and the state (in the case of providing compensation) may suffer damage.

2.2.2. Other Similar Typologies

The fact that other typologies are narrower does not mean that certain forms included in them cannot be used to expand the EC typology. For example, one type distinguished by TI could hardly be attributed to any of the types suggested by the EC, such as: absenteeism[41]. Although in the updated review the EC discussed double practice[42], it is not the same type as absenteeism. For example, absenteeism can be the consequence

35 M. Naím, "Corruption eruption," *Brown J World Aff* Vol. 2, No. 2 (1994): 245; quoted in Patricia J. Garcia, *supra* note 27.
36 Brigitte Slot et al., *supra* note 28, 57.
37 Tim K. Mackey, Taryn Vian and Jillian Kohler, *supra* note 3, 635.
38 Whistleblowers International, "Upcoding: health care and Medicare fraud," (2016) // https://www.whistleblowersinternational.com/; quoted in Margit Sommersguter-Reichmann et al., *supra* note 19, 298.
39 Determining the final beneficiary of the profit would also allow to distinguish individual from institutional corruption.
40 European Commission, 2013, *supra* note 3, 92.
41 Till Bruckner, *supra* note 3, 5.
42 Taryn Vian, *supra* note 3, 7.

of double practice[43], while the latter covers a broader range of corrupt acts. Similarly, Mackey et al. mention another type – ghost workers ("nonexistent individuals receiving salaries")[44] – that also does not fall under the category of double practice. Therefore, it could be suggested to extend the seventh type of corruption as double practice/absenteeism/ghost workers since they all are particularly related to healthcare payroll system[45] but, nevertheless, are different and cannot be joined together under one name.

Also, TI mentioned manipulation of data as a distinctive form of corruption. Although it is often related to the aforementioned types of corruption, some sources present examples that might not fall within the typology of the EC (e.g., "fraudulent billing for goods or services not provided, and the creation of 'phantom' patients to claim additional payments in systems where individual healthcare providers or facilities get compensated for the number of people treated"[46] or the "coverage of public health activities such as vaccination."[47])

Some forms of corruption in the healthcare sector (e.g., procurement corruption) also often occur together with sub-forms like favouritism, nepotism, clientelism, collusion, and extortion.[48] There are typologies that tend to exclude these sub-forms as distinct types of corruption[49]. However, a suggestion could be made to follow the EC typology where most types of corruption are related to particular areas of affairs or have distinctive features (e.g., bribery or fraud can be considered forms of corruption if at least the minimum characteristics defining them are met, but one could hardly consider extortion in itself as corruption (for example, the EC defines this sub-form alongside the type of public procurement[50])), whereas, the aforementioned sub-forms mostly occur together with other types of corruption.[51] Therefore, we suggest to regard them as additional signs of other types of corruption, making it easier to identify corrupt practices.[52]

3. SYSTEM OF FRAMEWORKS FOR IDENTIFICATION OF CORRUPTION IN HEALTHCARE SECTOR

All of the aforementioned typologies show the variety of forms of corruption in the healthcare system. However, being single, they allow identification of corruption only

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43 „[O]ften because [medics] are engaging in private practice during their regular public service working hours" (Patricia J. Garcia, *supra* note 27).

44 Tim K. Mackey, Taryn Vian and Jillian Kohler, *supra* note 3, 635.

45 Tim K. Mackey, Taryn Vian and Jillian Kohler, *supra* note 3, 635; Karen Hussmann, *supra* note 3, 28.

46 William D. Savedoff and Karen Hussmann, "Why are Health Systems Prone to Corruption?": 4–14; in: *Global Corruption Report 2006* (London and Ann Arbor: Pluto Press, 2006); quoted in Till Bruckner, *The Ignored Pandemic: How Corruption in Healthcare Service Delivery Threatens Universal Health Coverage* (Transparency International, 2019), 14 // https://ti-health.org/wp-content/uploads/2019/03/Ignored-Pandemic-WEB-v3.pdf

47 Patricia J. Garcia, *supra* note 27.

48 *Ibid.*; Pietro Previtali and Paola Cerchiello, "The Prevention of Corruption as an Unavoidable Way to Ensure Healthcare System Sustainability," *Sustainability* Vol. 10, No. 9 (August 2018): 8 // DOI:10.3390/su10093071; European Commission, 2013, *supra note* 3, 35, 68.

49 Karen Hussmann, *supra* note 3, 26.

50 European Commission, 2013, *supra* note 3, 70.

51 E.g., collusion in embezzlement (Rakhal Gaitonde et al., *supra* note 3, 48), favouritism or collusion in procurement, favouritism and nepotism in misuse of positions (European Commission, 2013, *supra* note 3, 35, 266).

52 On the other hand, we do not deny that it is possible that corrupt acts could manifest themselves only in these sub-forms. Therefore, we believe that discussion how to call them – forms or sub-forms – is not significant. The most important thing is that assignment of such features to the typology in any form could help to reveal corrupt acts. We chose the term 'sub-forms' only in order not to distort and complicate the EC typology.

in a certain aspect, so there is a possibility that a particular act that does not fall under any of these typologies may not be recognized as corruption, even though corrupt relations exist. To avoid this, these typologies should be connected and perceived as an integrated system. For example, M. Sommersguter-Reichmann et al. provide an example of perceiving different frameworks as complementing each other. What they did is presented in the table below.

Table 1. Links between typologies[53]

European Union	European Healthcare Fraud and Corruption Network	Corruption	
		Individual	Institutional
Bribery	Fraud	Likely	Possible
	Corruption	Likely	Possible
Procurement corruption	Abuse	Unlikely	Likely
	Fraud	Likely	Possible
	Corruption	Likely	Possible
Improper marketing relations	Abuse	Unlikely	Likely
	Fraud	Likely	Possible
	Corruption	Likely	Possible
Misuse of (high-level) positions and networks	Abuse	Unlikely	Likely
	Fraud	Likely	Possible
	Corruption	Likely	Possible
Undue reimbursement claims	Abuse	Unlikely	Likely
	Fraud	Likely	Possible
	Corruption	Likely	Possible
Fraud and embezzlement	Abuse	Possible	Likely
	Fraud	Likely	Possible
	Corruption	Likely	Possible

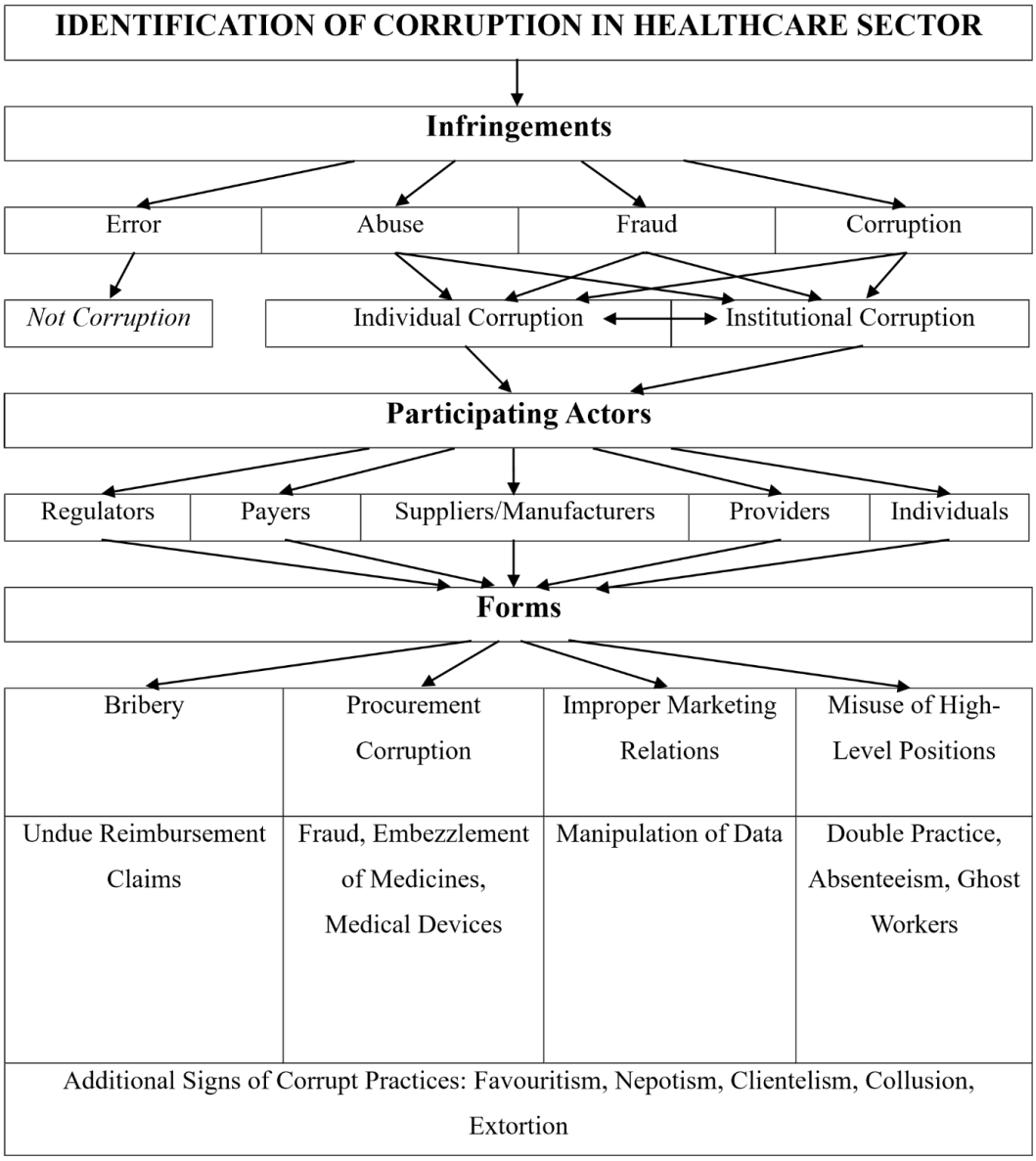
To sum up the data provided in this table, all mentioned types can occur either as fraud or corruption, both individual and institutional. However, only fraud and embezzlement can be done by abuse. Therefore, activities covered by other types can be exercised only intentionally to be perceived as an infringement. Nevertheless, actions covered by all typologies can be done at the institutional level, even in the form of abuse. This is where such activities that are not contrary to law from the standpoint of individual corruption can still undermine the main principles of public service and, consequently, fall into the category of institutional corruption. As M. Sommersguter-Reichmann et al. note*:* "fraud and embezzlement … (hinting at illegal behaviour in the sense of individual corruption), … often occur in the form of abuse, i.e. without necessarily resorting to illegal acts."[54]

Based on this example, we would like to propose our own classification, which includes all the suggestions given above.

The Table 2 provides a plan for examining whether a particular case could be qualified as corruption or not. How to use it can be explained by the following example.

[53] Margit Sommersguter-Reichmann et al., *supra* note 19, 294.
[54] Margit Sommersguter-Reichmann et al., *supra* note 19, 299.

Table 2. Identification of Corruption in Healthcare Sector[55]



There was a certain infringement of norms established in the healthcare sector. To begin with, it should be determined what type of violation it was: error, abuse, fraud or corruption. If it was an error, then it was not a case of corruption. If another type of infringements is detected, further investigation is required to determine whether it was corruption. For that purpose, it is necessary to consider the general concept of corruption, the presence of its elements, as well as examine the case from the point of view of individual and institutional corruption concepts. If the case has the characteristics of corruption and falls into the categories of individual or institutional corruption (or both), it should be further investigated which actors participated in the corrupt act, thus determining the specific form(s) of corruption. Also, it should be noted that this method of detecting corruption can be useful not only for examining real acts of corruption, but also for studying the risks of corruption manifestations.

However, the table only represents theoretical aspects of identification of corruption in the healthcare sector. The ability to identify corruption in practice depends

[55] Source: own work based on the authors' works which are cited above the table.

on how corruption is defined in legislation. Therefore, the next part is dedicated to the analysis of Lithuanian legal acts determining corruption and its forms in healthcare sector.

4. CONCEPT OF CORRUPTION IN HEALTHCARE SECTOR IN LITHUANIA

The last part of the article is devoted to examining how corruption in healthcare system is defined in Lithuanian law, including the legislation of selected healthcare institutions.

One of the main legal acts in this field is the Law on Prevention of Corruption (hereafter – the Law). According to it, corruption is understood as "the abuse of authority to benefit oneself or another person in the public or private sector".[56] Therefore, the definition corresponds to the aforementioned definitions used by international organizations, and can also be classified as comprehensive, including almost all elements.[57] However, the Law establishes only the definition, and hardly mentions the forms of corruption. Nevertheless, some of them can be found in the Anti-Corruption Code of Conduct adopted by the Ministry of Health (hereafter – the Code). It defines such forms of corruption in healthcare sector as conflict of interest, cronyism, nepotism[58], also attention is paid to the policy of gifts[59] (as a part of the type of bribery), and four hypothetical cases of corruption are provided.[60] However, the examples provided are very general, not related to any specific form of corruption, and written in complex language.

Another relevant document in this field is the Program for the Prevention of Corruption in the Healthcare System for the Years 2020–2022. It defines corruption as follows: "[a] violation of a corrupt nature is an administrative offense, violation of work duties or official misconduct committed by abuse of authority and directly or indirectly seeking benefits for oneself or another person, as well as a criminal offense of a corrupt nature."[61] This definition includes both essential elements of corruption, i.e., the abuse of public authority and improper benefit. But forms of corruption in the healthcare system are hardly described in the program. The most emphasised of them is procurement corruption, which is defined comprehensively.[62] However, other forms are not further described and can only be indirectly identified in the program.

It may be concluded that all the presented legal acts are more focused on general measures of corruption prevention rather than on determining the forms of corruption, which could be considered a disadvantage, especially in the view of the variety of classifications presented above. The fight against corruption could be more effective if more different forms of corruption in healthcare system are provided for in the legal acts, particularly, the Anti-Corruption Code of Conduct and The Program for the Prevention of Corruption in the Healthcare System for the Years 2020–2022, since these documents are direct measures to raise anti-corruption awareness of healthcare workers. Providing more specific and simpler examples, linking each of them to a certain form

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56 *Law on Prevention of Corruption of the Republic of Lithuania,* Official Gazette (2002, No. 57-2297, as amended in 2022), Art. 2, sec. 2.
57 See section *Common Features of Corruption*.
58 *Order on the Approval of the Anti-Corruption Code of Conduct of the Ministry of Health of the Republic of Lithuania* (2022), sec. 4 // https://sam.lrv.lt/uploads/sam/documents/files/Korupcijos%20prevencija/%C4%AEsakymas%20d%C4%97l%20antikorupcinio%20elgesio%20kodekso%20patvirtinimo%2012%2020%20(1)RED01_10.pdf
59 *Ibid.*, chapter IV.
60 *Ibid.*, Annex.
61 *The Program for the Prevention of Corruption in the Healthcare System for the Years 2020–2022* (2020), sec. 3.2. Font styles are copied from the source.
62 *Ibid.*, sec. 14, 24, 32, 33.

of corruption, could help the potential actors of corruption themselves to better understand what situations corresponding to the forms of corruption should be avoided.

Apart from the aforementioned legal acts, definitions of corruption can be found also in internal legislation of healthcare institutions. We have selected three republican hospitals of Lithuania for analysis: the Republic Klaipeda Hospital (hereafter – Klaipeda Hospital), the Kaunas Hospital of the Lithuanian University of Health Sciences (hereafter – Kaunas Hospital), and the Republican Siauliai Hospital (hereafter – Siauliai Hospital).

Both the Klaipeda and Siauliai Hospitals provide a definition of corruption in their internal legislation. The Siauliai Hospital associates corruption with the transfer of illegal benefits to a public official to perform or not perform his/her duties,[63] whereas the Klaipeda Hospital defines corruption as any behaviour of employees related to obtaining any benefit, exceeding their authority, not meeting the standards of behaviour, conducted to satisfy private interests, thereby harming the interests of the state, the hospital or other persons.[64] Similarly, corruption is defined in the Klaipeda Hospital's Corruption Prevention Program, but here the negative consequences of corruption are additionally emphasized.[65] From this we can see that healthcare institutions in Lithuania define corruption diversely.

Some other forms of corruption in healthcare sector are also defined and explained. For example, the Klaipeda Hospital provides definitions of such forms of corruption as bribery, influence peddling, conflict of interest, misuse of official position.[66] Furthermore, it establishes principles such as: avoidance of conflicts of interest; transparency of public procurement; prohibition of influence trading and misuse of official position; prohibition of bribery; and avoidance of nepotism, cronyism.[67] Whereas, the Siauliai Hospital at first did not define the forms of corruption more broadly, with the exception of the goals of the Corruption Prevention Program that included managing conflicts of interest and making public procurement transparent.[68] In March 2023, the Transparency and Trust Policy of the Public Institution Republican Siauliai Hospital was additionally adopted and published. In it, the list of definitions related to forms of corruption is much wider: the concepts of conflict of interest, nepotism, protectionism, fraud, trade in influence, and abuse are included and explained.[69] In addition, the anti-corruption obligations to be implemented in individual areas that are associated with forms of corruption are extensively described.[70] Consequently, it can be concluded that healthcare institutions in Lithuania distinguish certain forms of corruption, but concepts of some other forms are missing in their legal acts (e.g., improper marketing relations, undue reimbursement claims, double practice, absenteeism, ghost workers).

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63 *Order on the Approval of the Corruption Prevention Program and the Implementation Plan of the Corruption Prevention Program of the Public Institution Republican Siauliai Hospital for 2020–2022* (2020), sec. 3.1 // https://rsl.lrv.lt/uploads/rsl/documents/files/Korupcija/V-1279_2020-12-31.pdf.

64 *Corruption Prevention Policy of the Public Institution Republic Klaipeda Hospital* (2021), sec. 6.2 // https://www.rkligonine.lt/wp-content/uploads/2021/02/VsI-Respublikines-Klaipedos-ligonines-Korupcijos-prevencijos-politika_-patv.-2021-01-14-isak-Nr.-1.6-I-15.pdf

65 *2020–2023 Program for the Prevention of Corruption in the Public Institution Republic Klaipeda Hospital* (2020), sec. 7.1 // https://www.rkligonine.lt/wp-content/uploads/2021/03/20210322163216668.pdf

66 *Supra* note 64, sec. 6.4–6.7.

67 *Ibid.*, sec. 10.3–10.5, 10.7-10.9.

68 *Supra* note 63, sec. 7.1, 7.4.

69 *Transparency and Trust Policy of the Public Institution Republican Siauliai Hospital* (2023), sec. 5.2, 5.5–5.7, 5.10–5.11 // https://rsl.lrv.lt/uploads/rsl/documents/files/Skaidrumo%20ir%20pasitik%C4%97jimo%20politika.pdf

70 *Ibid.,* sec. 7.

We did not find any documents defining corruption or its forms on the website of the Kaunas Hospital (neither the Corruption Prevention Measures Plan nor the Code of Conduct of the Hospital Employees do not have these features). The only form for which an explanatory leaflet has been prepared is bribery.[71] This could be considered a shortcoming; but the hospital provides references to the Code of the Ministry of Health, which contains the definition of corruption and singles out certain forms of corruption.

In summary, both Lithuanian national law and healthcare institutions present different definitions of corruption. They also describe some forms of corruption, though certainly not all of them. This substantiates the relevance of our previously presented corruption identification plan, which aims to cover as many as possible corrupt acts, as well as the importance of characteristics of the corruption excluded by Gaitonde et al. Both the features and the identification plan could help to improve and unify the concept of corruption in the healthcare sector of Lithuania, thus increasing the probability of more successful corruption prevention.

CONCLUSIONS

Although corruption in general does not have a unified definition, certain characteristic features of it can be distinguished, the presence of which allow for the analysis and identification of whether a particular act should be considered corruption or not. These features include:

a) abuse of,
b) entrusted power related to public functions,
c) done in private or public sector,
d) for the purpose of personal (in a broadest sense),
e) gain of any kind,
f) infringing the rights of others.

These signs of corruption apply to corruption in healthcare sector as well.

But the distinction of characteristics alone is not sufficient to identify corruption in healthcare system, as there are many various forms of corruption in the healthcare sector. For that purpose, to identify corruption in this sector, it is necessary to consider various typologies that categorize the forms of corruption in the healthcare system.

Furthermore, to identify the most difficult-to-detect forms of corruption in the healthcare sector, the existing typologies must be evaluated as a unified system. To that end, this article presents a plan for identifying corruption in healthcare system, based on which it is possible not only to identify specific acts of corruption, but also to analyse the areas where the probability of the occurrence of corruption risks is the highest and, at the same time, to search for effective measures to prevent corruption.

The analysis of the definitions of corruption and its forms presented in Lithuanian law and in the internal legal acts of medical institutions also shows that there is a practical need to unify and develop the concept of corruption and forms of corruption in healthcare sector, as currently there is a considerable diversity of definitions, and some forms of corruption in healthcare system receive too little attention in legislation. This allows us to conclude that the elements of corruption identification presented in this research, as well as the proposed identification plan, are relevant, as they could help to improve the identification of corruption in the Lithuanian healthcare sector and

[71] *No to corruption*, booklet (2022) // https://kaunoligonine.lt/wp-content/uploads/2022/01/Korupcijai_ne-lankstinukas.pdf

at the same time highlight areas requiring the implementation of additional preventive measures.

Consequently, the following recommendations are offered for improving the identification of corruption in the healthcare system:

1) to define those of the presented forms of corruption in healthcare sector which are not yet established in the Anti-Corruption Code of Conduct adopted by the Ministry of Health;

2) to provide therein more specific and simply understandable examples about particular forms of corruption in healthcare sector;

3) it is recommended for the Kaunas Hospital of the Lithuanian University of Health Sciences (and other healthcare institutions that have not done it yet) to define corruption and its forms in healthcare sector in their internal legislation;

4) healthcare institutions should also introduce (or in the case of fulfilling the first recommendation – provide references to) the definitions to the forms of corruption in healthcare system that are not yet described in their internal legal acts;

5) ultimately, it is suggested both for legislature and healthcare institutions when fulfilling these recommendations to bear in mind the presented plan of identification of corruption in healthcare sector as well as when adopting future anti-corruption legislation.

BIBLIOGRAPHY

1. Brooks, Graham, Martin Tunley, Mark Button, and Jim Gee. "Fraud, Error and Corruption in Healthcare: A Contribution from Criminology": 25–44. In: Misja Mikkers, Wolf Sauter, Paul Vincke, Jos Boertjens, eds., *Healthcare Fraud, Corruption and Waste in Europe*. The Hague, Netherlands: Eleven Publishers, 2017.
2. Bruckner, Till*. The Ignored Pandemic: How Corruption in Healthcare Service Delivery Threatens Universal Health Coverage*. Transparency International, 2019.
3. Chattopadhyay, Subrata. "Corruption in Healthcare and Medicine: Why should Physicians and Bioethicists Care and what should they do?" *Indian Journal of Medical Ethics* Vol. 10, No. 3 (2013): 153–159 // DOI:dx.doi.org/10.20529/IJME.2013.049
4. European Commission. *Corruption*. Special Eurobarometer, Vol. 523. Luxembourg: Publications Office, 2022.
5. European Commission. *Study on Corruption in the Healthcare Sector*. Luxembourg: Publications Office, 2013.
6. European Healthcare Fraud and Corruption Network. *The EHFCN Waste Typology Matrix©* // https://www.ehfcn.org/what-is-fraud/ehfcn-waste-typology-matrix/.
7. Gaitonde, Rakhal, Andrew Oxman, Peter Okebukola, and Gabriel Rada. *Interventions to Reduce Corruption in the Health Sector. Review* Vol. 8. Chichester, UK: John Wiley & Sons, Ltd, 2016.
8. Garcia, Patricia J. "Corruption in Global Health: The Open Secret." *The Lancet (British Edition)* Vol. 394, No. 10214 (December 2019): 2119–2124 // DOI:dx.doi.org/10.1016/S0140-6736(19)32527-9
9. Hussmann, Karen. *Addressing Corruption in the Health Sector: Securing Equitable Access to Health Care for Everyone*. Bergen: Chr. Michelsen Institute, 2011.

10. Kohler, Jillian Clare. "I Know it when I See it: The Challenges of Addressing Corruption in Health Systems Comment on we Need to Talk about Corruption in Health Systems." *International Journal of Health Policy and Management* Vol. 8, No. 9 (September 2019): 563–566 // DOI:10.15171/ijhpm.2019.48
11. Mackey, Tim K., Taryn Vian, and Jillian Kohler. "The Sustainable Development Goals as a Framework to Combat Health-Sector Corruption." *Bulletin of the World Health Organization* Vol. 96, No. 9 (September 2018): 634–643 // DOI:dx.doi.org/10.2471/BLT.18.209502
12. Montgomery, Kathleen. "Response—Corruption, Trust, and Professional Regulation." *Journal of Bioethical Inquiry* Vol. 19, No. 1 (March 2022): 129–134 // DOI:dx.doi.org/10.1007/s11673-021-10149-5
13. *No to corruption*. Booklet (2022) // https://kaunoligonine.lt/wp-content/uploads/2022/01/Korupcijai_ne-lankstinukas.pdf
14. OECD. *Preventing Corruption in Public Procurement OECD – Organisation for Economic Co-operation and Development*. 2016.
15. Previtali, Pietro and Paola Cerchiello. "The Prevention of Corruption as an Unavoidable Way to Ensure Healthcare System Sustainability." *Sustainability* Vol. 10, No. 9 (August 2018): 3071 // DOI:dx.doi.org/10.3390/su10093071
16. Rothstein, Bo. "Fighting Systemic Corruption; the Indirect Strategy." *Daedalus* Vol. 147, No. 3 (2018): 35–49.
17. Savedoff, William D., and Karen Hussmann. "Why are Health Systems Prone to Corruption?": 4–16. In: *Global Corruption Report 2006*. London and Ann Arbor: Pluto Press, 2006.
18. Slot, Brigitte, Linette de Swart, Kim Weistra, Wija Oortwijn, Niels van Wanrooij, and Tess Raets. *Updated Study on Corruption in the Healthcare Sector*. Luxembourg: Publications Office, 2017.
19. Sommersguter-Reichmann, Margit, Claudia Wild, Adolf Stepan, Gerhard Reichmann, and Andrea Fried. "Individual and Institutional Corruption in European and US Healthcare: Overview and Link of various Corruption Typologies." *Applied Health Economics and Health Policy* Vol. 16, No. 3 (June 2018): 289–302 // DOI:dx.doi.org/10.1007/s40258-018-0386-6
20. Vian, Taryn. "Anti-Corruption, Transparency and Accountability in Health: Concepts, Frameworks, and Approaches." *Global Health Action* Vol. 13 (sup1, February 2020): 1694744 // DOI:dx.doi.org/10.1080/16549716.2019.1694744

LEGAL REFERENCES

1. *2020–2023 Program for the Prevention of Corruption in the Public Institution Republic Klaipeda Hospital.* 2020 // https://www.rkligonine.lt/wp-content/uploads/2021/03/20210322163216668.pdf
2. *Corruption Prevention Policy of the Public Institution Republic Klaipeda Hospital.* 2021 // https://www.rkligonine.lt/wp-content/uploads/2021/02/VsI-Respublikines-Klaipedos-ligonines-Korupcijos-prevencijos-politika_-patv.-2021-01-14-isak-Nr.-1.6-I-15.pdf
3. *Law on Prevention of Corruption of the Republic of Lithuania.* 2002, No. 57-2297, as amended in 2022.
4. *Order on the Approval of the Anti-Corruption Code of Conduct of the Ministry of Health of the Republic of Lithuania.* 2022 // https://sam.lrv.lt/uploads/sam/documents/

files/Korupcijos%20prevencija/%C4%AEsakymas%20d%C4%97l%20antikorupcinio%20elgesio%20kodekso%20patvirtinimo%2012%2020%20(1)RED01_10.pdf

5. *Order on the Approval of the Corruption Prevention Program and the Implementation Plan of the Corruption Prevention Program of the Public Institution Republican Siauliai Hospital for 2020–2022.* 2020 // https://rsl.lrv.lt/uploads/rsl/documents/files/Korupcija/V-1279_2020-12-31.pdf
6. *Program for the Prevention of Corruption in the Healthcare System for the Years 2020–2022.* 2020.
7. *Transparency and Trust Policy of the Public Institution Republican Siauliai Hospital.* 2023 // https://rsl.lrv.lt/uploads/rsl/documents/files/Skaidrumo%20ir%20pasitik%C4%97jimo%20politika.pdf