Patient's rights in Montenegro: Making health care system accountable

Publisher:
Center for Monitoring and Research CeMI
Bul Josipa Broza 23a
81 000 Podgorica
e-mail: cemi@t-com.me
www.cemi.org.me

For the publisher:
Zlatko Vujović

Author:
Sanja Zindović

Stabilitätspakt für Südosteuropa
Gefördert durch Deutschland
Stability Pact for South Eastern Europe
Sponsored by Germany

CeMI
CENTAR ZA MONITORING I ISTRAŽIVANJE

"This policy brief has been prepared in the framework of the TRAIN Programme 2016 (Think Tanks Providing Research and Advice through Interaction and Networking), which is supported by the German Federal Foreign Office (Stability Pact for South East Europe) and implemented by the German Council on Foreign Relations (DGAP)."

INTRODUCTION

Montenegro is often characterized as a country which rapidly advances on its way towards the EU, but likewise a country where corruption and organized crime are widespread. The healthcare system is recognized as an area especially susceptible to corruption. Occurrence of corruption in healthcare negatively influences the quality and availability of medical services, decreases the number of provided services, increases their cost, and directly jeopardizes lives of patients. According to the results of a public opinion survey published by Directorate for Anti-Corruption Initiative in December 2015, corruption in healthcare takes up the first place (18.9% of the respondents believe there is corruption in the healthcare system), followed by police and inspection services. According to a public opinion survey CeMI conducted and published in 2016, 42.6% of the respondents consider that corruption is widely spread in healthcare and that it is mostly present within doctor-patient relations (37.8% of the respondents). This percentage has unfortunately decreased by only 1.3% in comparison with the research conducted in 2013. This fact indicates that there still remains a lot of work to be done in this field by the relevant institutions and the Montenegrin society even though this problem has been recognized by all relevant institutions and even though there has been progress in relation to it.

According to a public opinion survey CeMI conductd and published in 2016, 42.6% of the respondents consider that corruption is widely spread in healthcare and that it is mostly present within doctor-patient relations (37.8%).

The aim of this paper is to give an overview of the presence of corruption in the healthcare system in Montenegro, its main forms and causes, the shortcomings of existing anti-corruption policies in this area and finally to give recommendations for its reduction. The healthcare system is very complex, comprising many actors and decision-making levels as well as spheres which are recognized as "fertile ground" for the occurrence of corruption. Most studies recognize three levels of corruption in healthcare, categorizing them into so-called "petty" corruption and "grand" corruption. The first one refers to the problem of informal payments within doctor-patient relations which is recognized as the most widespread type of corruption in our society. So-called "grand" corruption comprises two levels: public procurement procedures and the relations between pharmaceutical and healthcare sectors. The focus of this policy paper will be on presence of corruption within the doctor-patient relationship.

LEGAL AND POLITICAL FRAMEWORK

Reform of the healthcare sector is positioned on the top of the agenda of the Government of Montenegro. The aim is to increase the efficiency of the healthcare sector and to improve the quality of medical service delivery in healthcare together with financial stability and the use of modern medical technologies. In the last few years, changes in the legislative framework were made together with measures for the improvement of institutional and administrative capacities in order to overcome existing problems in this area. The new Law on Healthcare Protection stipulates the obligation of institutions to conduct a high-quality monitoring and evaluation process by introducing two types of evaluation: internal - conducted by the healthcare institution itself, and external quality control - done by the external body in cooperation with the Ministry of Health. In both cases Commission for Quality Control of Healthcare Protection should be formed. The main problem in this area is that criteria for the selection of the members of the Commission for Quality Control are not precisely defined. Moreover, the new Law, unlike the previous Law on Healthcare Insurance, abolishes the jurisdiction of the Commission over the implementation of anti-corruption measures. The Law on Healthcare Insurance stipulates that the Health Insurance Fund should annually conclude contracts with both private and public healthcare institutions in order to provide the health insurance holders services which they cannot obtain within the Network of the Healthcare Institutions, or services for which they have to wait for a long time. In the Rulebook on Criteria for Conclusion of Contracts on Provision of Medical Services and Methods of Payment for Medical Services, availability of medical services was set as one of the criteria for the conclusion of contracts among the Health Insurance Fund and medical service providers. For instance, although patients should not wait longer than 30 days for specialist consultations, diagnostics and specialist medical rehabilitation and no longer than 15 days for hospitalization in theory; patients often wait for these services even up to three months in practice.

Law on Healthcare Protection defines the rights and obligations of citizens in the implementation of their right to healthcare protection, providing available healthcare protection under equal conditions and banning any type of discrimination during the provision of medical services.

Patients' rights are regulated both by the Law on Healthcare Protection and by the Law on the Rights of the Patients. Law on Healthcare Protection defines the rights and obligations of citizens in the implementation of their right to healthcare protection, providing available healthcare protection under equal conditions and banning any type of discrimination during the provision of medical services. The Law on the Rights of Patients more precisely defines patients' rights and procedures for their protection by introducing the right to file a complaint for patients deprived of their rights on healthcare protection or the patients dissatisfied with provided medical service or conduct of an employee of the healthcare institution. The complaint is filed to the Director of the healthcare institution or to the Protector of Patients' Rights in verbal or written form. If a patient is not satisfied with the decision regarding his complaint, he or she can contact the healthcare inspection.

CORRUPTION IN THE DOCTOR – PATIENT RELATIONS

Corruption in the doctor – patient relations usually occurs when a patient is not able to obtain medical service thought regular channels, or when the service requires a long waiting period. CeMI's research from 2013, which opened the issue of corruption in the healthcare system of Montenegro for the first time, identifies the following as the main problems in the doctor-patient relationship: a) low salaries of medical staff; b) the professional and responsible work of medical staff is not rewarded adequately; c) adequate regulations and sanctions are not established, or they are not implemented; d) lack of an efficient monitoring and control mechanisms. The corruption in the doctor – patient relationship can be identified in many forms, with the most frequent being informal payments, influence on long waiting lists, re-direction of patients from public to private practices and many other violations of patients' rights.

Informal payments in the doctor – patient relations are recognized as most frequent example of corruption. The definition of this type of corruption is „remuneration for (medical) services, which are supposed to be free". The United Nations Convention Against Corruption (UNCAC) defines bribery as:'(a) the promise, offering or giving, directly or indirectly, of an undue advantage to any person, for the person himself or herself or for another person or entity, in order that he or she, in breach of his or her duties, act or refrain from acting, (b) the solicitation or acceptance, directly or indirectly, of an undue advantage by any person, for the person himself or herself or for another person, in order that he or she, in breach of her duties, act or refrain from acting.' Also, informal payments can be defined as payments made by patients or their relatives for those services that are to be provided free of charge or at a lower price. Given that they pose additional and unforeseen costs, they may constitute a barrier to access healthcare, especially for the poorer socio-economic class of the population. In the framework of a CATI survey, 35.1% interviewees stated that they "gave a gift" to a healthcare practitioner on at least one occasion even though they were not requested to do so, while 3.9% of interviewees stated that they made informal payments to a doctor in the last year. The patient is usually familiar with the "tariff" of informal paid service in advance and medical service delivery is mostly paid directly to the provider of medical service. Therefore, those patients who can afford to pay more guarantee accessibility and higher quality of medical care to themselves, undermining the equality of citizens in the area of healthcare protection, as well as the financial sustainability and functionality of the entire healthcare system.

This situation can be explained through the fact that, according to the World Health Organization in 2014, only 6,4% of GDP was allocated to healthcare, which makes Montenegro a European country with, following Albania, the lowest budget allocation for healthcare.

On basis of the opinions of the interviewees in the CATI survey[1] as well as medical workers involved in the process, low salaries of medical workers are recognized as the main reason for the high presence of corruption in healthcare. This situation can be explained through the fact that, according to the World Health Organization in 2014, only 6,4% of GDP was allocated to healthcare, which makes Montenegro a European country with, following Albania, the lowest budget allocation for healthcare. This indicates that doctors in Montenegro are under high work pressure while the "reward" for their work is on the level of that of a government official. Compared to the economic potential of Montenegro, salaries of medical workers are very low (the salary of a specialist is 1.32 higher than the average salary in county). If we add to this the fact that the annual amount spent per capita for medical service in 2014 in Montenegro was 458 US $[2](while for example Croatia spends 1050 US $ per capita), it is not hard to understand why corruption is recognized as the only way for closing the gap between the low level of healthcare service, patients' needs and doctors' low incomes.

1 http://cemi.org.me/images/istrazivanja/Prava_pacijenata_istraivanje.pdf.
2 Based on information published by World Health Organization Global Health Expenditure database.

Table 1. Health expenditure per capita US$

Health expenditure per capita US$	
Country	**2014**
Montenegro	458
Serbia	633
Bosnia and Herzegovina	464
Macedonia, FRY	354
Slovenia	2161
Croatia	1050
Albania	272

Table 2. Health expenditure, total (% of GDP)

Health expenditure, total (% of GDP)	
Country	**2014**
Montenegro	6.4%
Serbia	10.4%
Bosnia and Herzegovina	9.6%
Macedonia, FRY	6.5%
Slovenia	9.2%
Croatia	7.8%
Albania	5.9%

Another important reason why informal payments are such a highly ranked example of corruption is the long waiting periods for a medical service. Even though efforts of the Ministry of Health and other relevant institutions in decreasing the waiting period for medical service are evident, patients can wait up to three months for certain specialist examinations. Based on the information provided by the Ministry of Health[3], patients can wait for over a month for medical checks in the Ophthalmology Clinic, Oncology and Radiotherapy, Orthopedic Clinic and Clinic for Heart Diseases, which is very worrying despite the efforts of relevant institutions to reduce these periods. All waiting lists published on the website of the Clinical Center of Montenegro are regularly updated. However, the procedures of their formation, the way urgency is determined and the way the patients are ranked on the lists are not transparent.

Long waiting lists lead to other problems in the healthcare sector. Namely, the amended Law on Healthcare protection[4] again introduces the right to additional work of medical workers in public and private practices. The positive side, according to the Ministry of Health[5], is that this decreases the waiting period for some medical examinations by introducing additional working hours on medical examinations where the waiting period is long, and it gives the medical workers a possibility to increase their monthly incomes. On the other side, 31% of CATI interviewees stated that doctors advised them to go to a private clinic where they paid for a medical service that is free in the public institution. This practice, "exchanging of patients" between colleagues from the public to the private service, leads to "double paying" by patients for the same service and represents a violation of their rights.

Although the Law on Patient's Rights[6] establishes the institution of the Protector of Patient's Rights which is in charge of processing patient's complaints, the level of their independence as a precondition for efficient work is questionable. Namely, the director of a medical institution who appoints the Protector of Patient's Rights is also included in processing patients' complaints. It is evident that the Protector of Patients' Rights is in a conflict of interest since he/she is processing appeals on the work of the institution which appoints him/her. According to information obtained throughout the Free Access to the Information Requests from the Primary Healthcare Center Podgorica[7], the number of complaints submitted to the Protector of Patients' Rights in the period from 2013 until the 1st of June 2016 was 1201, with 0 conducted disciplinary proceeding. The lack of disciplinary proceedings was explained with a short deadline stipulated by the Law and the failure of all structures in charge to react promptly and primarily the Protector of Patient's Rights, Institution's management and the Commission for Quality Control of Primary Healthcare Center Podgorica. Unfortunately, this practice characterizes all healthcare institutions on the national level. From 4044 submitted complaints to the Protector of Patients' Rights, only 13 disciplinary proceedings were conducted and sanctions have been imposed only in 8 cases. According to information obtained from the Ministry of Health and State Prosecutor's Office, no cases of corruption in healthcare were processed. Special Prosecutor's Office informed us that in the period from January 2013 until May 2016, 23 criminal charges with suspicion on corruption against health workers were submitted, of which 16 were processed by the Special Prosecutor's Office, while 7 were delegated to the Basic State Prosecutor's Office.[8] Only one case was processed in court and ended with a liberating verdict. However, the discrepancy between the number of reported cases to the Protector of Patients' Rights and data obtained through the CATI survey, as well as imposed sanctions for medical workers, leaves space to question how efficient the mechanism of protection of patients' rights is.

3 Information obtained through Free Access to the Information Demand No. 060-988/2016 UPI sent to the Ministry of Health - sent on 17/05/2016.
4 Official Gazette of Montenegro no. 3/2016.
5 Information obtained through Free Access to the Information Demand No. 060-988/2016 UPI sent to the Ministry of Health.
6 „Official Gazette of Montenegro", No.39/04 and „Official Gazette of Montenegro", No.14/10;
7 Information obtained through Free Access to the Information Demand No. 05/01 5542/2 sent to the Primary Healthcare Center Podgorica.
8 Information obtained through Free Access to the Information Demand No. 11/16 sent to the Special Prosecutor's Office.

Another important reason for corruption is a lack of developed public awareness on the side of the patients concerning their rights. Namely, patients are often not able to recognize that their rights are violated because they are not well informed about them. Even though certain campaigns aiming to educate and inform citizens on patients' rights and the way they are protected were conducted, according to latest CATI survey Centre for Monitoring and research conducted[9], 36.7% interviewees in Montenegro do not know to whom he/she would report corruption in healthcare. By conducting a coordinated intensive campaign, public awareness on patient's rights and ways to protect them can be increased.

RECOMMENDATIONS:

As previously stated, even though certain improvement of legislative and institutional framework of healthcare sector in Montenegro is evident and even though measures for suppression of informal payments, bribery and corruption in doctor – patient relations have been defined, deficiencies are still evident. In order to overcome them we consider that following steps should be undertaken:

1. It is necessary to **increase the percentage of funds** allocated for healthcare from the state budget in order to provide better medical service delivery for citizens. **The European standard ranges between 8 - 12% of GDP (compared to only 6,4% of GDP in Montenegro) and should be the goal to strive for.** This will result in higher salaries for medical workers and the possibility for appropriate remuneration of their work. Also, it will open the space for employment of an adequate number of doctors per capita (currently we have 2.1 doctors per 1000 citizens), which will reduce work pressure of medical workers.
2. **The transparency of waiting lists for specialist examinations should be increased.** Although efforts of relevant institutions to reduce the waiting period for medical examinations are evident, the procedure for the determination of urgency and criteria for the ranking of patients on these lists is still not transparent enough.
3. The Protector of Patients' Rights should be independent from healthcare institutions. The Protector should be under the jurisdiction of **Ombudsman or local self-government, and financially independent from the Ministry of Health**. Also, procedures for processing patients' appeals should be more precisely defined by adopting bylaws. This would also define the manner in which decisions upon appeals are made in order to provide a unified practice and to establish more efficient sanctioning of serious violations of patients' rights.
4. It is **necessary to improve the control mechanism and to intensify the work of state bodies in the identification and adequate sanctioning of cases of corruption in healthcare**. Also, the system of quality control of healthcare should be improved, including a regular survey of medical service users on their satisfaction with the quality of delivered medical service.
5. A general acceptance, or at least tolerance, of corruption is considered one of the main drivers behind its widespread presence in healthcare.[10] It is necessary to conduct an intensive campaign in order to raise public awareness on patients' rights. By informing citizens about their patients' rights and ways to recognize and act in case they are requested to give informal payments in order to obtain medical service, the level of corruption could be reduced. Also, it **is necessary to educate citizens that giving a bribe is a criminal act, and that corruption will persist as long as it is socially acceptable to give or receive financial or other benefits**. Without a general rejection of this behavior in society, policies and institutions cannot achieve success in the fight against corruption.
6. Finally, it is very important to **include media and 'civil society' watchdogs,** as well as patient groups in identifying and reporting on corruption and in rising public awareness on this issue.

9 http://cemi.org.me/images/istrazivanja/Prava_pacijenata_istraivanje.pdf

10 Study on Corruption in the Healthcare Sector HOME/2011/ISEC/PR/047-A2, European Commission – Directorate-General Home Affairs, October 2013

Bibliography:

Primary sources:

- Law on Healthcare Insurance, Official Gazette of Montenegro, No. 32/10.
- Law on Healthcare Insurance, Official Gazette of Montenegro, No. 39/40, 23/05, 29/05 and Official Gazette of Montenegro", No. 006/16 from 22.01.2016.
- Law on Healthcare Protection, Official Gazette of Montenegro", No. 3/16.
- Official Gazette of Montenegro", No. 40/10 and 40/11.
- Rulebook on Criteria for Conclusion of Contracts on Provision of Medical Services and Methods of Payment for Medical Services, Official Gazette of Montenegro", No. 09/11.

Secondary source:

- Allien, S., Davaki K. & Mossialos E.: „Informal payments for Health Care", in Transparency International: Global Corruption Report 2006: Corruption and health, pp. 62, available at http://issuu.com/transparencyinternational/docs/2006_gcr_health-sector_en 2006.
- Anti-Corruption Resource Center U4: Corruption in the Health sector, 2008, pp. 25, available at: http://www.u4.no/publications/corruption-in-the-health-sector-2/.
- Based on information published by World Health Organization Global Health Expenditure database.
- Definition derived from: ASSPRO CEE 2007, EU-Funded research project on the efficiency and impact of patient payments policies in six Central and Eastern European (CEE) countries: Bulgaria, Hungary, Lithuania, Poland, Romania, and Ukraine.
- Information obtained through Free Access to the Information Demand No. 060-988/2016 UPI sent to the Ministry of Health - sent on 17/05/2016
- Information obtained through Free Access to the Information Demand No. 060-988/2016 UPI sent to the Ministry of Health.
- Public opinion survey published by Centre for Monitoring and Research http://cemi.org.me/images/istrazivanja/Prava_pacijenata_istraivanje.pdf.
- Information obtained through Free Access to the Information Demand No. 05/01 5542/2 sent to the Primary Healthcare Center Podgorica.
- Information obtained through Free Access to the Information Demand No. 11/16 sent to the Special Prosecutor's Office.