

PECULIARITIES OF THE LEGAL REGULATION OF ACCEPTING GIFTS IN THE CIVIL SERVICE IN UKRAINE AND LITHUANIA

Andrejus Novikovas¹

Mykolas Romeris University, Lithuania

Email: andrejus@mruni.eu

Serhii Fedchyshyn²

Yaroslav Mudryi National Law University, Ukraine

Email: s.a.fedchyshyn@nlu.edu.ua

Received: 4 October 2024; accepted: 22 May 2025

DOI: <https://doi.org/10.13165/j.icj.2025.11.007>

Abstract. As a candidate for European Union (EU) membership, Ukraine is required to implement reforms in public administration, the civil service and prevention of corruption. The European Commission has acknowledged Ukraine's progress in preventing corruption, but there is still room for improvement. Accepting gifts is one of the critical areas that can encourage corruption in the civil service. Examining the experience of EU Member States can provide valuable information to Ukrainian legislators to help them eliminate gaps in current Ukrainian laws and other legal acts. This article analyses and compares the specifics of the legal regulation of accepting gifts in the civil service in Ukraine and Lithuania. The authors compare the legal acts and case law of Ukraine and Lithuania, addressing the problem of accepting illegal gifts and establishing sanctions for such actions. The authors also analyse the challenges that both countries face in implementing their anti-corruption policies. Based on other countries' experiences, the authors propose strategies that Ukrainian legislators could adopt to develop a more effective anti-corruption policy. The objectives of the article are to: (i) define the concepts of gifts and bribery; (ii) identify the lists of permitted and prohibited gifts in the civil service in Ukraine and Lithuania; and (iii) compare the liabilities arising from illegal gift acceptance in each country.

Keywords: Civil Service, Gift, Corruption Prevention, Bribery, Liability.

Introduction

Ukraine applied for European Union (EU) membership in February 2022 and, following this, was granted EU candidate status in June 2022. In December 2023, EU leaders agreed to begin accession negotiations with Ukraine. Ukraine must implement reforms in its public administration, civil service and prevention of corruption if it is to be allowed to join the EU. Although the European Commission acknowledges the progress Ukraine has made in preventing corruption, further steps must be taken to align Ukrainian legislation with the EU's highest anti-corruption standards. Preventing and combatting corruption have been central to Ukraine's reform agenda since the Revolution of Dignity in 2013-2014, and the increased transparency and preventive measures have led to tangible reductions in corruption across various sectors. However, corruption remains a major problem, causing significant costs to the state budget, businesses and the population, discouraging investment and undermining the rule of law (Commission Opinion on Ukraine's application for membership of the European Union, 2022). The acceptance of gifts by public servants is an area particularly prone to corruption. Legal loopholes and unclear concepts in Ukrainian law, such as the 'generally accepted notions of hospitality', raise concerns

¹ Professor at the Institute of Public Law at the Law School of Mykolas Romeris University, ORCID ID: 0000-0002-2715-1402.

² Associate Professor at the Administrative Law Department of the Yaroslav Mudryi National Law University, ORCID ID: 0000-0003-3096-3214.

about the effectiveness of current anti-corruption measures. Without clear rules, public servants may fail to implement policies that benefit society. Gift policy is one of the key areas where clear and restrictive legislation is essential to effectively combat corruption.

This article compares the specifics of the legal regulations around accepting gifts in the civil service in Ukraine and Lithuania. Lithuania's legal framework for gift acceptance has been influenced by EU legislation and practices developed by other EU Member States. From a practical standpoint, Lithuania's Corruption Perceptions Index is relatively high, and the country ranks 34th out of 180 countries (Corruption Perceptions Index of Lithuania, 2023). In contrast, Ukraine's Corruption Perceptions Index is lower, and it ranks 104th out of 180 countries (Corruption Perceptions Index of Ukraine, 2023). This explains why Ukrainian policymakers should consider Lithuania's experience, which is highly relevant for Ukraine as it seeks to establish an effective anti-corruption framework.

This article addresses the instruments that Ukrainian policymakers could adopt to align Ukraine's legal framework with EU standards on gift acceptance in the civil service, closing any gaps that allow for illegal gift acceptance. The aim of this article is to reveal the peculiarities of the legal regulation of gift acceptance in Ukraine and Lithuania. We had several objectives: (i) to define the concept of gifts and when a gift may be considered a bribe; (ii) to identify permitted and prohibited gifts in the civil service in Ukraine and Lithuania; and (iii) to compare the liabilities resulting from illegal gift acceptance in each country. The research methods employed included: (i) document analysis, focusing on the legal acts and documents of Ukraine and Lithuania; (ii) the comparative method, comparing the regulations on gift acceptance in each country; and (iii) the generalisation method, to formulate conclusions. AI-assisted technology was used in the preparation of this article for checking grammar and spelling.

There is a lack of extensive research on the interrelationship between bribes and gifts in the context of legal regulation. Prominent scholars such as Graycar and Jancsics (2016) analysed the criteria for distinguishing between bribes and gifts; Fort and Noone (2000) explored the need for consistent legal regulations regarding this distinction; Lambsdorff and Frank (2010) empirically studied the ethical effects of separating bribes from gifts in various situations; and Rose-Ackerman (1998) examined corrupt practices related to gift-giving. Kavoliūnaitė-Ragauskienė (2019) analysed informal exchanges and societal acceptance of such practices, offering suggestions for steps to take to reduce petty corruption. Anthropological studies provide knowledge about the regulation of gifts and bribes, and scholars such as Ferraro (2004), Lomnitz (1988), Sahlins (1965), and Torsello and Venard (2015) examined the origins of information about gift-giving and its relationship to corruption.

1. Definitions of Accepting Gifts and Bribery: Similarities and Differences

It is important to talk about the policy and legal regulation of accepting gifts in the civil service, because there is a fine line between gift-giving and bribery. Without delving into the essence of gift policy, culture, traditions and legal regulation, a civil servant may commit corruption-related violations when accepting gifts.

Graycar and Jancsics pointed out that 'people see no harm in giving gifts. Gifts are usually exchanged as part of a regular social relationship. On the other hand, people almost universally condemn bribes, viewing them as undesirable, harmful, and destructive. Bribes are given to influence the outcome of a political, bureaucratic, business or professional decision or relationship. As two parts of one medal: gifts are legal, while bribes are illegal' (Graycar & Jancsics, 2016).

Nonetheless, gifts and bribes fall within two completely different categories. Society's attitude towards gifting is overwhelmingly positive. Social relations are characterised by ongoing exchanges of gifts between people: gifts give rise to positive emotions and reveal people's generosity. At the same time, there is almost unanimous condemnation of bribes, which are considered unwelcome and harmful. Bribery is infamous for influencing political, administrative, business and sectoral decisions. At first glance, it would appear clear that gifts are legal and bribes are illegal. In the abstract, bribery and

corruption are generally associated with immoral and improper behaviour, while giving is associated with goodness and sacrifice (Rose-Ackerman, 1998).

According to the Encyclopedia Britannica, 'gift exchange is the transfer of goods or services that, although regarded as voluntary by the people involved, is part of the expected social behavior.' In this definition, a gift is viewed as an exchange process that transfers resources between actors. Exchange means 'the giving up of something in return for receiving something else' (Macneil, 1986). The definition also suggests that a gift is subject to social expectations (rules), even if the participants are unaware of them (Graycar & Jancsics, 2016). Almost anything of value can be given as a gift. Nevertheless, a gift does not have to be an object with physical properties (Larsen & Watson, 2001).

Other researchers perceive the concept of gifting in a similar vein: almost anything of value can be given as a gift, not necessarily in a physical form (Graycar & Jancsics, 2016; Larsen & Watson, 2001). For example, a gift may come in different forms of labour or mutual favours (Carrier, 1991). Nonmaterial gifts or counter-gifts do not always come from an individual. For example, they may be initiated by a community or family in the form of symbolic capital, such as recognition, honour, prestige or nobility (Bourdieu, 1997).

According to Graycar and Jancsics, 'gifts have a clear complementary role in areas where market solutions are scarce or imperfect. There are obvious instrumental benefits of such informal *quid pro quo* because the one obtains resources that are rare or more expensive compared to purchase in a commercial market. Through gift-type exchanges, the one may also receive services, requiring more trust between partners compared to what impersonal economic transactions normally offer' (Graycar & Jancsics, 2016).

Overall, gifts and bribes are both socially functional institutions and operate as complex rule systems (Graycar & Jancsics, 2016). According to anthropologists, both gifts and bribes are informal exchange processes regulated by multiple (formal and informal) rule systems (Anders & Nuijten, 2008). 'Beyond their instrumental advantages, both have important social functions which keep together social groups at different levels of society. The universal norms of gift-giving and bribery may cause the following implications: (i) trigger reciprocity, (ii) regulate the (gift/bribe) exchange process, and (iii) enforce a *quid pro quo*. According to anthropologists, this normative similarity suggests that gifts and bribes constitute the same type of social behavior' (Smart & Hsu, 2008).

Polese indicated that 'Anthropologists argue that the phenomenon defined as bribery by authorities is regulated by informal rules simultaneously with formal criminal codes. Such legal plurality makes the boundaries between gift and bribe especially blurry' (Polese, 2008). 'From this anthropological view, gift and bribe refer to the same type of social behavior because both are subject of diverse and often contradictory rule systems, and formal law is just one of them. Informal norms are often so powerful, indicating that people should share limited resources in a particular way, very often with their closest friends, relatives, classmates, colleagues, ethnic groups, local communities or other informal networks, and not with outsiders' (Graycar & Jancsics, 2016).

Gifts have important social functions, as they keep social groups together and help them survive by reducing risk along with protection against the uncertainty derived from inadequate formal institutional structures. A gift represents something substantially social beyond its purely instrumental value (Alexander, 2001). A gift always refers to its symbolic meaning related to the social bond between the partners (Sherry, 1983), and, as part of a ritual, gifts can shape the participants' recent and future expectations and behaviour (Komter, 2007). Thus, a gift has a crucial communicative function (Schieffelin, 1980). It sends symbolic messages from the giver, which are interpreted by the receiver (Wooten, 2000). Gifts can be used strategically as signals of the intention to establish a relationship and reduce social distance (Camerer, 1988).

When applied to a bureaucratic situation, ingroups and outgroups operate differently. Corrupt exchanges within a bureaucracy are risky if trust is not strong. Trust is a typical solution to deal with risk because it provides a framework of social arrangements by serving as a buffer against uncertainty (Luhmann, 1988). There is also the functional aspect of the gift-briber dilemma. Transactions that look like deviant and socially harmful behaviour to outside observers might be seen by the local population as a practice of gifting, with crucial social and symbolic functions (Smith, 2007)

The European Commission defines a gift as money, a material item, the opportunity to participate free of charge in public or private events that are paid for and have a specific value (e.g. tickets to sports events, concerts, plays, conferences, etc.), as well as any other benefit of monetary value (e.g. transport costs) (European Commission, 2012). Items of low value that serve an informational purpose (brochures, booklets, catalogues etc.) and gifts intended for the institution are not considered gifts. Hospitality is also distinguished and is defined as a service consisting of food, drinks, accommodation and entertainment offered by any source outside the institution.

According to the *Dictionary of Current Lithuanian Language* (2021), the meaning of the phrase ‘to make a present’ is defined as giving a gift without expecting anything in return. Similarly, the *Guidelines on Limitations on Accepting Gifts and Services* (2020) define a gift as any property or property right that is transferred gratuitously; a gift encompasses anything that can be valued in monetary terms, such as items, services, various forms of entertainment, discounts, gift vouchers, hospitality and loans.

The problem with gifts is that, at first glance, it is often difficult for the public to distinguish between gifts and bribes. A particular issue arises when a gift is given by colleagues who share common employment duties. It is frequently challenging for the public to determine whether the gift stems from genuine friendship or is given in expectation of a more favourable decision or attitude in the future. The main concern is ensuring that the public does not mistakenly perceive corruption where it does not exist (Explanatory Letter, 1997).

In essence, a gift is (i) a personal act, where value is transferred from one individual to another, (ii) free of charge, and (iii) typically given on a special occasion and not related to official duties or the performance of professional responsibilities. The concept of a gift agreement is defined in Article 6.465(1) of the *Civil Code of the Republic of Lithuania* (2000), which states that under a gift agreement, one party (the donor) transfers property or property rights (claims) to another party (the recipient) free of charge, transferring ownership or releasing the recipient from an obligation to the donor or a third party. Article 6.466(3) of the *Civil Code of the Republic of Lithuania* (2000) also stipulates that if both parties exchange property, property rights or counter-obligations, such a transaction is not considered a gift agreement.

If a donor expects the recipient to act or refrain from acting in exchange for a gift, it is no longer simply an act of hospitality between two individuals. Although rejecting a gift might risk offending someone who has the best of intentions, in the context of the civil service, it must be remembered that a gift from an individual with seemingly noble intentions could potentially lead to disciplinary, administrative or even criminal liability for the civil servant who accepts it.

Similarly, the courts of the Republic of Lithuania distinguish between giving a gift and a bribe. It is not possible to cover up the giving of a bribe by pretending to give a gift on the occasion of a holiday. The panel of judges in the *Ruling of the Vilnius Regional Court Criminal Cases Division* (case No. 1A-206-1035/2025) noted that the giver and the recipient of the gift are usually connected by a close relationship, i.e. they are relatives or friends. The gift agreement is gratuitous, i.e. the giver does not expect to receive any benefit in return, and the gift is an expression of a close relationship. Gifts are usually given on specific occasions. It is noteworthy that when giving a gift or a greeting, they are given to an individual openly, to cheer them up, show them attention or appreciate them, openly stating that they are being congratulated on their birthday, name day or other occasion. In the case at hand, the court considered the situation to be a bribe, because the money was placed between sheets of documents and handed over

in a concealed manner, without in any way indicating that it was a gift or a greeting (Vilnius Regional Court Criminal Cases Division, case No. 1A-206-1035/2025).

The fact that a proposed bribe may be called support, a loan, a gift, a lucky lottery, a success tax or otherwise does not change the nature of its criminal purpose (Lithuanian Court of Appeal, case No. 1A-65-851/2024).

In Ukraine, similar to Lithuania, the concept of a 'gift contract' is also governed by a civil code, the *Civil Code of Ukraine* (2003). Article 717 of the *Civil Code of Ukraine* states that under a gift contract, one party (the donor) transfers or agrees to transfer property (a gift) to another party (the recipient) free of charge. The *Civil Code of Ukraine* (2003) further elaborates on the concept of a gift, including movable property, such as money and securities, as well as immovable property and property rights the donor currently possesses or may acquire in the future (Article 718). Ukrainian anti-corruption legislation provides a specific definition of a gift in the context of corruption offences committed by civil servants. The term 'bribe' is no longer used in Ukraine's anti-corruption legislation, being replaced by the broader concept of an 'unlawful benefit'.

The definition of a gift is directly regulated by the *Law of Ukraine on Prevention of Corruption* (2014). This law, which emerged as a result of the Revolution of Dignity, laid the foundation for anti-corruption reform and the adaptation of Ukraine's anti-corruption legislation to European standards. The *Law of Ukraine on Prevention of Corruption* (2014) explicitly defines a gift as 'money or other property, advantages, privileges, services, or intangibles, given/received free of charge or at a price below the minimum market price' (Article 1, part 1, paragraph 11). In Ukraine, as in Lithuania, there are challenges in distinguishing between a gift and an unlawful benefit. The legal regulation of the term unlawful benefit in the *Law of Ukraine on Prevention of Corruption* (2014) has contributed to addressing this problem. The law defines an unlawful benefit as 'money or other property, advantages, privileges, services, intangibles, or any other intangible or non-monetary benefits that are promised, offered, given, or received without legal justification' (Article 1, part 1, paragraph 7).

The distinction between a gift and an unlawful benefit is based on the following criteria: (i) the type of object (a gift always has a monetary value, while an unlawful benefit may take the form of non-monetary benefits); (ii) the legality of grounds for giving/receiving and their purpose (a gift is given/received without legal grounds and without an expectation of anything in return, whereas an unlawful benefit is promised, offered, given or received without legal grounds and in exchange for the illegal use of the recipient's official powers or related opportunities); and (iii) compensation (a gift may be given either freely or at a price below market value, while an unlawful benefit is given without compensation) (Havronyuk., 2018). Despite the legal distinction between these concepts in the *Law of Ukraine on Prevention of Corruption* (2014), challenges remain in practice, particularly in proving the intent behind giving or receiving a gift (unlawful benefit).

As demonstrated by the practice of Ukrainian courts, one of the essential features of an unlawful benefit is that it is offered to and received by a public servant in connection with the performance of their functions of state or local government. For example, a public servant was held administratively liable on the grounds that he, in return for a reward (1,000 Ukrainian hryvnia (UAH) and a pack of cigarettes), deliberately failed to bring an offender to face administrative responsibility. However, by the *Ruling of the Court of Appeal of Poltava Region* (case No. 554/3923/15-p), the aforementioned decision was overturned, with the court stating that the official's conduct was related to his official functions, and therefore it should be classified not as a violation of the restriction on receiving gifts, but specifically as receiving an unlawful benefit.

In summary, it can be stated that the legislative regulation of the concept of a gift in Lithuania and Ukraine has common features, combining general norms of gift contracts (civil codes) with specific anti-corruption provisions. In Lithuania, the concept of a gift is defined in the recommendations of the Chief Official Ethics Commission, while in Ukraine, it is directly codified in the *Law of Ukraine on*

Prevention of Corruption. The definition of a gift in both Lithuania and Ukraine usually coincides with monetary value, covering goods, services, discounts and other property. However, Lithuanian legislation only indicates the gratuitous nature of a gift ('transferred free of charge'), while Ukrainian legislation further specifies the value aspect, indicating that a gift is 'given/received free of charge or for less than the minimum market price'.

2. Permission and Prohibition of Accepting Gifts in Public Service

Interpreting the provisions of the anti-corruption legislation of Ukraine, the National Agency on Corruption Prevention of Ukraine classifies all gifts in the civil service into the following groups: (Methodological Recommendations, 2024):

- *Prohibited Gifts.* Article 23(1) of the *Law of Ukraine 'On Prevention of Corruption'* (2014) stipulates that civil servants are prohibited from demanding, requesting or receiving gifts for themselves or persons close to them from legal entities or individuals in the following circumstances: i) when the gift is related to the performance of state or local government duties (a gift for the actions or inactions of an official); and ii) when the donor is a subordinate of the recipient. The prohibition of civil servants receiving gifts from subordinates is designed to prevent favouritism and potential conflicts of interest within the civil service. These legal provisions in the *Law of Ukraine 'On Prevention of Corruption'* (2014) align with *Recommendation No. R (2000) 10* of the Committee of Ministers of the Council of Europe, which states that 'the public official should not demand or accept gifts, favors, hospitality, or any other benefit for themselves, their family, close relatives, or friends, or persons or organizations with whom they have business or political relations, if such gifts could influence or appear to influence their impartiality.'

The *Law of Ukraine 'On Prevention of Corruption'* (2014) also outlines a clear protocol for civil servants in the event they are offered a gift. According to Article 25, civil servants who are offered an unlawful benefit or gift must immediately take the following steps: i) reject the offer; ii) if possible, identify the person who made the offer; iii) if possible, involve witnesses, including colleagues; and iv) notify in writing their immediate supervisor (if applicable), the head of their respective authority, or one of the authorised counter-corruption entities about the offer. If a civil servant discovers property that may be an unlawful benefit or gift in their office, they must notify their immediate supervisor in writing or the head of their authority within one business day.

- *Gifts Permitted with Certain Limitations.* Civil servants may accept gifts under the following conditions: i) the gift is unrelated to the performance of their state or local government duties and is not from a subordinate; ii) the gift aligns with generally accepted notions of hospitality; and iii) the value of the gift does not exceed two living wages for able-bodied individuals (approximately 133 euro as of 1 January 2024), and the total value of gifts from a single individual or group within a 1-year period does not exceed four living wages (approximately 266 euro as of 1 January 2024), based on the living wage set on the first of January of the year the gifts are accepted.

Ukrainian courts have already developed case law on the granting of gifts with certain restrictions (gifts from a subordinate). For instance, by the *Ruling of the Hertsya District Court of Chernivtsi Region* (case No. 3/714/194/2020), a public servant was found guilty of violating the prohibition on receiving gifts because he accepted three bottles of alcoholic beverages from a subordinate, not in the context of hospitality and not on the occasion of festive or ceremonial events.

However, the value limitation does not apply to gifts that i) are given by close relatives (spouse, parents, children, etc. as defined in Article 1(1)(4) of the *Law of Ukraine 'On Prevention of Corruption'* (2014)); ii) are publicly available discounts on goods, services, prizes, awards or bonuses; or iii) are reimbursement or coverage of travel expenses made from state or local budgets, international organisations or event organisers for business trips. The main challenge with this category of gifts lies in the interpretation of the term 'generally accepted notions of hospitality', which is subjective. Civil servants must declare gifts exceeding five living wages (approximately 332 euro as of 1 January 2024), in accordance with the *Law of Ukraine 'On Prevention of Corruption'* (2014). Given the lack of legal

certainty in the *Law of Ukraine 'On Prevention of Corruption'* (2014) and the presumption of innocence principle, there is the potential for avoiding responsibility for violating gift acceptance prohibitions.

- *Permitted Gifts*. These are gifts not intended for a civil servant personally, but instead for the state or territorial community. Permitted gifts are those received by civil servants on behalf of the state, the Autonomous Republic of Crimea, a territorial community, or state and municipal enterprises, institutions and organisations. These gifts are considered state or communal property and must be transferred to the relevant entity according to procedures established by the Government of Ukraine (Article 23(3) of the *Law of Ukraine 'On Prevention of Corruption'* (2014)). Such gifts cannot be appropriated by a civil servant under any circumstances.

Valuable gifts, often awarded as part of state programmes, also fall under the category of permitted gifts. These are rewards for civil servants, particularly in the law enforcement and defence sectors (such as the Ministry of Defence, the State Border Guard Service, the Ministry of Internal Affairs, and the National Police). Valuable gifts, such as wristwatches or tablet devices, are purchased with state budget funds; their value cannot exceed 50% of the civil servant's minimum wage. For example, in the Ministry of Internal Affairs of Ukraine, valuable gifts are awarded for exceptional performance, initiative and active participation in law enforcement (Order of the Ministry of Internal Affairs of Ukraine, 2013). Civil servants may also receive state awards, such as a 'personalised firearm' for outstanding achievements, as outlined in Article 53 of the *Law of Ukraine 'On Civil Service'* (2015).

The practice and policy of permitted and prohibited gifts have been established and developed over a long period in the Republic of Lithuania. According to Lithuanian legislation, civil servants are permitted to accept gifts only in exceptional cases:

- Article 22(4) of the *Law on the Civil Service of the Republic of Lithuania* (1999) allows civil servants to be nominated for state awards for special services to the civil service.

- Institutional (internal) legal acts may establish gift-giving occasions for employees, such as for long-term service or retirement. In these cases, no declaration or registration of gifts is required because an order or internal legal act governs the matter.

According to Article 13(2) of the *Law on the Coordination of Public and Private Interests of the Republic of Lithuania* (1997), gifts may be accepted under the following circumstances:

- i) International protocol (e.g. state or diplomatic protocols).
- ii) Traditions (e.g. celebrating anniversaries, professional holidays).
- iii) When accepting representative gifts (e.g. gifts with state, institutional or professional symbols).
- iv) When the services are used for official purposes (e.g. work events, official lunches, or accommodation).

Article 13(3) of the same law stipulates that if a gift exceeds 150 euro in value, it is considered state or municipal property. The gift must be evaluated and stored according to the procedures set by the institution's head.

Other legal acts in Lithuania prohibit civil servants and their close relatives from accepting gifts if they are related to official duties:

- Article 6.470(5) of the *Civil Code* (2000) prohibits civil servants, politicians and their close relatives from accepting gifts when they are linked to the official duties of the recipient.

- Article 4 of the *Law on the Civil Service* (1999) emphasises the principles of decency and selflessness, prohibiting civil servants from accepting gifts, money or services that could influence their duties.

- Article 13(1) of the *Law on the Coordination of Public and Private Interests of the Republic of Lithuania* (1997) states that a declaring person or a person close to them cannot accept gifts or services if they are related to the declaring person's official position or official duties.

It should also be noted that a civil servant or an equivalent person performing public administration activities is subject to higher standards of both conduct and responsibility, which are established not

only in the Criminal Code but also in other legal acts (Panevezys Regional Court Criminal Cases Division, case No. 1A-175-366/2019)

In summary, the analysis of Lithuanian and Ukrainian legislation highlights three types of gifts based on their acceptability and the conditions for receiving them: (i) prohibited gifts, (ii) gifts allowed with certain restrictions and (iii) permitted gifts. Unlike Lithuania, the issue of protocol gifts in the civil service, including diplomatic gifts, remains largely unregulated in Ukraine. Neither the *Law of Ukraine 'On Prevention of Corruption'* (2014), the *Law of Ukraine 'On Civil Service'* (2015), nor any other legal acts regulate the conditions or procedures for receiving protocol gifts or transferring them to state ownership, etc.

In this context, it would be beneficial for Ukraine to adopt Lithuania's approach to regulating the acceptance of protocol gifts, as outlined in Article 13(2) of the *Law on the Coordination of Public and Private Interests of the Republic of Lithuania* (1997). Amendments should be made to Article 23 of the *Law of Ukraine 'On Prevention of Corruption'* (2014) to clarify the types of protocol gifts that may be accepted by civil servants and the conditions under which they may be received; the obligation for civil servants to report any received protocol gifts; the maximum value of protocol gifts that may be retained by a civil servant; and the procedure for transferring such gifts to state ownership. Adopting Lithuania's framework would help improve Ukraine's legislation, ensuring it is in line with European standards.

3. Liability of Civil Servants When Accepting Illegal Gifts

Ukraine has established both administrative and criminal liability for violations related to the acceptance of gifts. The type of liability is not determined by the value of the gift, but rather by its connection to a civil servant's professional activities.

The violation of gift acceptance restrictions is classified as a separate administrative offence related to corruption, as outlined in Article 172⁵ of the *Code of Ukraine on Administrative Offences* (1984). Administrative liability arises for the following acts: i) demanding, requesting or accepting a gift from a subordinate for oneself or one's close relatives; ii) accepting a gift that does not align with generally accepted notions of hospitality or exceeds the permissible value; and iii) failing to transfer a received gift to the designated authority, enterprise, institution or organisation as a gift to the state or territorial community. Penalties for such violations include administrative fines ranging from 100 to 200 non-taxable minimum incomes³, along with confiscation of the gift.

However, if a civil servant receives a gift in connection with their state or local government duties, it is considered an unlawful benefit, leading to criminal liability under Article 368 of the *Criminal Code of Ukraine* (2001). This article punishes the acceptance, promise or request for such benefits with a fine (ranging from 1,000 to 4,000 tax-free minimum incomes), arrest for 3 to 6 months or imprisonment for 2 to 4 years. In addition, offenders may face disqualification from holding certain positions for up to 3 years.

The penalties become more severe depending on the size of the unlawful benefit. According to Article 368(2) of the *Criminal Code of Ukraine* (2001), receiving an unlawful benefit of a significant amount (from 100 non-taxable minimum incomes, equivalent to 50 subsistence minimums (SM)⁴ is punishable by imprisonment for a term of 3 to 6 years, with disqualification from holding certain positions or engaging in certain activities for up to 3 years. According to Article 368(3) of the *Criminal Code of Ukraine* (2001), receiving an unlawful benefit of a large amount (from 200 non-taxable minimum incomes, equivalent to 100 SM) is punishable by imprisonment for a term of 5 to 10 years, with

³ One non-taxable minimum income of citizens in Ukraine is an amount equivalent to 0.37 euro

⁴ According to the *Law of Ukraine 'On the State Budget for 2024'*, dated 9 November 2023, the minimum subsistence wage for able-bodied individuals (SM) in 2024 was 3,028 UAH, which is approximately equivalent to 66 euro.

disqualification from holding certain positions or engaging in certain activities for up to 3 years, and confiscation of property. According to Article 368(4) of the *Criminal Code of Ukraine* (2001), receiving an unlawful benefit of an especially large amount (from 500 non-taxable minimum incomes, equivalent to 250 SM) is punishable by imprisonment for a term of 8 to 12 years, with disqualification from holding certain positions or engaging in certain activities for up to 3 years, and confiscation of property.

Notably, Ukraine does not have an official (disciplinary) liability for civil servants who violate the prohibition on receiving gifts. Article 65 of the *Law of Ukraine 'On Civil Service'* (2015) provides an exhaustive list of disciplinary offences for which civil servants can be held accountable, but violations related to gift acceptance are not included. Civil servants found guilty of accepting gifts may be dismissed and listed in the *Unified State Register of Persons Who Have Committed Corruption or Corruption-Related Offenses*, maintained by the National Agency for the Prevention of Corruption.

In Lithuania, the illegal acceptance of gifts can lead to criminal, administrative or civil liability. Criminal liability for accepting gifts as bribes is established under Article 225 of the *Criminal Code of the Republic of Lithuania* (2000). The law defines bribery as an act when a civil servant or a person treated as such who, directly or indirectly for their own benefit or for the benefit of others, has promised or agreed to accept a bribe, either directly or indirectly, themselves or through an intermediary, or who has demanded or provoked the giving of a bribe, or who has accepted a bribe for a lawful (unlawful) act or omission in the exercise of their powers.

Liability for accepting bribes in Lithuania varies, depending on the amount. Article 225(3) of the *Criminal Code of the Republic of Lithuania* stipulates that a civil servant who accepts a bribe exceeding the basic social benefit (MGL)⁵ 250 (the equivalent of approximately 250 times the minimum monthly wage) faces imprisonment for 2 to 8 years. For bribes of less than MGL 1, a civil servant may face a fine or arrest.

The judicial practice of the Republic of Lithuania clearly identifies the elements of a bribe as an illegal act. For example, the *Ruling of the Criminal Cases Division of the Supreme Court of Lithuania* (case No. 2K-69-697/2025) states that:

- The composition of the criminal act of bribery is formal; therefore, it is considered completed from the moment of committing the act.
- The crime in question is intentional. The person accepting the bribe understands that they are accepting the bribe, understands that by receiving it they undertake to perform certain lawful or unlawful actions or to refrain from performing them, and seeks to act in this way.
- Also, a necessary feature of bribery is the desire of the bribe-giver that the bribe-taker act (or not act) accordingly.
- When recognising a reward as a bribe, it is important whether this reward, not being part of officially regulated relations, is associated specifically with the exercise of the powers of a civil servant or a person equated to them or their exceptional position or favourability towards the bribe-giver.

Lithuania does not impose direct administrative liability for accepting illegal gifts (bribes). However, administrative responsibility may arise for violations involving conflicts of interest under Article 533 of the *Code of Administrative Offenses of the Republic of Lithuania* (2015). Administrative liability applies when a public official grossly violates the provisions of the *Law on the Coordination of Public and Private Interests* (1997), particularly in cases of conflicts of interest or where private interests are realised at the expense of public duties.

⁵ According to the Government of Lithuania Resolution 'On the amendment of the Resolution No. 1206 of the Government of the Republic of Lithuania dated November 5, 2014, 'On the approval of the reference indicators for social assistance benefits', the amount of the basic social benefit (in Lithuanian, bazinės socialinės išmokos dydis, MGL) is 55 euro <https://e-tar.lt/portal/lt/legalAct/9a6ec240981111eea5a28c81c82193a8>

It should be noted that administrative responsibility, according to Article 533 of the *Code of Administrative Offenses*, is possible only for a gross violation of the *Law on the Coordination of Public and Private Interests of the Republic of Lithuania* (1997). Article 23(7) of the *Law on the Coordination of Public and Private Interests of the Republic of Lithuania* (1997) states that the person making the declaration has grossly violated the provisions of this law if:

- i) the provisions of this law have been violated, even though the declarant has already been given prior written recommendations on which decisions he/she must refrain from preparing, considering or making;
- ii) the provisions of this law have been repeatedly violated within 1 year from the day the person was recognised as having violated this law;
- iii) the provisions of this law are violated due to a conflict of interests, in the circumstances of which a person working in the civil service (or a person close to him/her) realised his/her private interest.

Official liability arises in Lithuania for failing to perform duties properly due to improper actions, including the acceptance of gifts while on duty. Article 23(1) of the *Law on the Civil Service of the Republic of Lithuania* (1999) considers such misconduct to be a violation of internal regulations, and disciplinary measures (ranging from warnings to dismissal) may be imposed following an official investigation.

A comparison of the Ukrainian and Lithuanian approaches to liability for violating the prohibition on receiving gifts reveals several key points. Both countries establish criminal liability for such violations, but Ukraine does not have official (disciplinary) liability for civil servants who unlawfully accept gifts. Conversely, Lithuania provides for both criminal and civil liability for such actions.

In addition, the criminal sanctions in each country differ depending on the amount of the unlawful payment. In Lithuania, administrative liability may arise for conflicts of interest related to the acceptance of gifts, while in Ukraine, a general administrative offence is provided for the violation of restrictions on the acceptance of gifts, but conflicts of interest specifically related to gifts are not resolved.

Conclusions

The legal regulation of the concept of a gift in Lithuania and Ukraine has common features, combining general norms of gift contracts with specific anti-corruption provisions. In Lithuania, the concept of a gift is defined in the recommendations of the Chief Official Ethics Commission, while in Ukraine, it is directly enshrined in the *Law of Ukraine on Prevention of Corruption*. Both legal systems generally define gifts as items, services, discounts and other assets with monetary value. However, Lithuanian legislation indicates the gratuitous nature of a gift ('transferred free of charge'), while Ukrainian legislation provides additional details, indicating that a gift is 'given or received free of charge or for less than the minimum market price'.

Analysing the legal regulation in Lithuania and Ukraine, separate categories of gifts in the civil service emerge: prohibited gifts, permitted gifts with certain restrictions and permitted gifts. It should be noted that in Ukraine, the issue of receiving protocol gifts, especially in the context of diplomatic relations, is not regulated in principle. Neither the *Law on Prevention of Corruption* (2014), the *Law on Civil Service* (2015), nor any other legal acts specify the conditions, procedures or requirements for receiving protocol gifts or transferring them to state ownership.

In this regard, it would be beneficial for Ukraine to adopt Lithuania's approach to regulating the acceptance of protocol gifts, as outlined in Article 13(2) of the *Law on the Coordination of Public and Private Interests* (1997). Amendments should be made to Article 23 of the *Law on Prevention of Corruption* (2014) to define: (i) the types of protocol gifts that civil servants may receive and the conditions for their acceptance; (ii) the obligation of civil servants to report received protocol gifts; (iii) the maximum value of protocol gifts that can be retained by a civil servant; and (iv) the procedure for

transferring gifts into state ownership. Incorporating Lithuania's experience would help improve Ukraine's legislation and bring it into line with European standards.

As our analysis shows, criminal, administrative and disciplinary liabilities can be imposed on civil servants for violating the prohibition on receiving gifts. In Ukraine, administrative and criminal liability is established for such violations, and the type of liability is determined not by the value of a gift, but by its connection with the professional activities of a civil servant.

Several fundamental differences are noticeable when analysing the legal acts of Lithuania and Ukraine regulating liability for illegal acceptance of gifts. First, both countries establish criminal liability for such violations. However, in Ukraine, official (disciplinary) liability for the illegal acceptance of gifts by civil servants is not clearly addressed. Second, in each country, the severity of criminal penalties for receiving illegal payments varies depending on the amount of the illegal payment. Third, in Lithuania, administrative liability may arise in situations related to a conflict of interest when receiving a gift. Meanwhile, Ukrainian legal acts provide for an administrative offence when violating legal restrictions on accepting gifts. Additionally, Ukraine's *Code of Administrative Offenses* (Article 172⁵) addresses violations related to conflicts of interest, but this provision is more general and does not specifically cover the illegal acceptance of gifts.

References:

- Alexander, C. (2001). Legal and binding: Time, change and long-term transactions. *Journal of the Royal Anthropological Institute*, 7, 467–485
- Anders, G., & Nuijten, M. (2008). Corruption and the secret of law: An introduction. In M. Nuijten, & G. Anders (Ed.), *Corruption and the secret of law: A legal anthropological perspective* (pp. 1–26). Abingdon, UK: Ashgate Publishing Group.
- Bourdieu, P. (1997). Marginalia—Some additional notes of the gift. In Schrifft (Ed.), *The logic of the gift* (pp. 231–241). New York, NY: Routledge.
- Camerer, C. (1988). Gifts as economic signals and social symbols. *The American Journal of Sociology*, 94(Suppl), S180–S214.
- Carrier, J. (1991). Gifts, commodities, and social relations: A Maussian view of exchange. *Sociological Forum*, 6, 119–136.
- Civil Code of Republic of Lithuania. The sixth book (2000). https://www.infolex.lt/portal/start_ta.asp?act=doc&fr=pop&doc=12755&title=LR%20civilinis%20kodeksas.%20%D0e%F0toji%20knyga.%20Prievoli%F8%20teis%EB
- Civil Code of Ukraine (2003). <https://zakon.rada.gov.ua/laws/show/435-15#Text>
- Code of Administrative Offenses of the Republic of Lithuania (2015). <https://www.e-tar.lt/portal/lt/legalAct/4ebc66c0262311e5bf92d6af3f6a2e8b/asr>
- Code of Ukraine on Administrative Offenses (1984). <https://zakon.rada.gov.ua/laws/show/80731-10#Text>
- Commission Opinion on Ukraine's application for membership of the European Union (2022). Communication from the Commission to the European Parliament, the European Council and the Council. Brussels, 17.6.2022 COM(2022) 407 final https://neighbourhood-enlargement.ec.europa.eu/document/download/c8316380-6cb6-4ffd-8a84-d2874003b288_en?filename=Ukraine%20Opinion%20and%20Annex.pdf
- Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for Staff Members -SEC(2012)167
- Smart, A., & Hsu, C. L. (2008). Corruption or social capital? Tact and the performance of guanxi in market socialist China. In M. Nuijten, & G. Anders (Ed.), *Corruption and the secret of law: A legal anthropological perspective* (pp. 167–191). Abingdon, UK: Ashgate Publishing Group.
- Criminal Code of Republic of Lithuania (2000). <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.111555/asr>
- Criminal Code of Ukraine (2001). <https://zakon.rada.gov.ua/laws/show/2341-14#Text>
- Explanatory letter of the draft law of the Republic of Lithuania on the reconciliation of public and private interests in the civil service (1997). 1997-06-06 No. P-526 (Lietuvos Respublikos viešųjų ir privačių interesų derinimo valstybinėje tarnyboje įstatymo projekto aiškinamasis raštas. Reg. 1997-06-06 Nr. P-526) <https://e-seimas.lrs.lt/portal/legalAct/lt/TAK/TAIS.39767?jfwid=-ycedt991o>
- Ferraro, E. (2004). Owing and being in debt. A contribution from the Northern Andes of Ecuador. *Social Anthropology*, 12, 77–94.
- Fort T. L., Noone J. L. (2000) Gifts, Bribes, and Exchange: Relationships in NonMarket Economies and Lessons for Pax E-Commercia // *Cornell International Law Journal*, No 3(33), p. 515–546.

- Guidelines on Limitations on Accepting Gifts and Services No. KS-40 adopted by Chief Official Ethics Commission of Lithuania on 12 March 2020, https://vtek.lt/wp-content/uploads/2021/01/VTEK_Rekomendacines_gaires_del_dovanu_ir_paslaugu_priemimo_apribojimu_2020_0312_fin.pdf
- Government Resolution Regarding the Government of the Republic of Lithuania in 2014 November 5 resolution No. 1206 "Regarding the approval of the amounts of reference indicators of social assistance payments" amendment (12/06/2023 No. 946, TAR 12/11/2023, code 2023-23949) the amount of the basic social benefit. <https://e-tar.lt/portal/lt/legalAct/9a6ec240981111eea5a28c81c82193a8>
- Graycar A. & Jancsics D. (2016). "Gift Giving and Corruption." *International Journal of Public Administration* 40 (12): 1013–23. <https://www.tandfonline.com/doi/full/10.1080/01900692.2016.1177833>.
- Havronyuk, M. I. (2018) *Науково-практичний коментар до Закону України «Про запобігання корупції»* [Scientific and practical commentary to the Law of Ukraine "On Prevention of Corruption"] Київ: Байте, 2018. p. 64.
- Judgment of the Lithuanian Court of Appeal dated July 1, 2024 in criminal case No. 1A-65-851/2024. <https://www-infoplex-lt.skaitykla.mruni.eu/tp/2254773>
- Kavoliūnaitė-Ragauskienė, E. *Dovanos ir kyšio santykis: antropologinės implikacijos teisės sistemai* [The Gift-Bribery Relationship: Anthropological Implications for the Legal System]. Vilnius: Lietuvos teisės institutas, 2019. <https://talpykla.elaba.lt/elaba-fedora/objects/elaba:39249850/datastreams/MAIN/content>
- Keinys, S. (2021) *Dabartinės lietuvių kalbos žodynas* [Dictionary of current Lithuanian language] , 8-as patais. ir papild. leid., Vilnius: Lietuvių kalbos institutas [8th amendment. and additional ed., Vilnius: Lithuanian Language Institute], XXVI, 973 p. ISBN 978-609-411-281-2, <https://ekalba.lt/dabartines-lietuviu-kalbos-zodynas/dovanoti.%20~jimas.%20~tojas?paieska=dovanoti&i=6f65eef2-0926-465c-a76c-57eb1255945f>
- Komter, A. (2007). Gifts and social relations: The mechanisms of reciprocity. *International Sociology*, 22, 93–107.
- Lambsdorff J. G. & Frank B. (2010) Bribing versus gift-giving // *Journal of Economic Psychology*, Vol. 31(3).
- Larsen, D., & Watson, J. J. (2001). A guide map to the terrain of gift value. *Psychology & Marketing*, 18, 889–906.
- Law on Civil Service of Republic of Lithuania (1999). <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.84605/asr>
- Law on Coordination of Public and Private Interests of the Republic of Lithuania (1997). <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.41669/asr>
- Law of Ukraine "On Prevention of Corruption" (2014). <https://zakon.rada.gov.ua/laws/show/1700-18#Text>
- Law of Ukraine "On the State Budget for 2024" (2023) <https://zakon.rada.gov.ua/laws/show/3460-20#Text>
- Law of Ukraine "On Civil Service" (2015). <https://zakon.rada.gov.ua/laws/show/889-19#Text>
- Macneil, I. R. (1986). Exchange revisited. *Ethics*, 96, 567–593.
- Methodological recommendations for the application of certain provisions of the Law of Ukraine "On the Prevention of Corruption" regarding the prevention and settlement of conflicts of interest, compliance with restrictions on the prevention of corruption: order of the National Agency for the Prevention of Corruption No. 2 dated January 12, 2024. <https://wiki.nazk.gov.ua/category/konflikt-interesiv/>
- Lomnitz, L. A. (1988). Informal exchange networks in formal systems: A theoretical model. *American Anthropologist*, 90, 42–55
- Luhmann, N. (1988). Familiarity, confidence, trust: Problems and alternatives. In D. Gambetta (Ed.), *Trust: Making and breaking cooperative relations* (pp. 94–107). New York, NY: Basil Blackwell.
- National Agency for the Prevention of Corruption. Unified State Register of Persons who have committed corruption or corruption-related offenses <https://corruptinfo.nazk.gov.ua/>
- On the approval of the Procedure for awarding rank-and-file and senior officers and employees of the Ministry of Internal Affairs of Ukraine, other persons with a valuable gift purchased at the expense of the state budget: order of the Ministry of Internal Affairs of Ukraine dated March 29, 2013, No. 322. *Official Gazette of Ukraine*. 2013. No. 33. Art. 1180. (Про затвердження Порядку нагородження осіб рядового і начальницького складу та працівників МВС України, інших осіб цінним подарунком, придбаним за рахунок коштів державного бюджету: наказ Міністерства внутрішніх справ України від 29.03.2013 р., № 322.) *Офіційний вісник України*. 2013. № 33. Ст. 1180. <https://zakon.rada.gov.ua/laws/show/z0635-13#Text>
- Polese, A. (2008). If I receive it, it is a gift; If I demand it, then it is a bribe. *Anthropology in Action*, 15, 47–60.
- Rank of Corruption Perceptions Index of Lithuania during 2023 year <https://www.transparency.org/en/cpi/2023/index/ltu>
- Rank of Corruption Perceptions Index of Ukraine during 2023 year. <https://www.transparency.org/en/cpi/2023/index/ukr>
- Recommendation № R (2000) 10 of Committee of Ministers to Member States on Codes of conduct for civil officials, adopted on 11 May 2000. <https://rm.coe.int/16806cc1ec>

- Rose-Ackerman, S. (1998). Bribes and gifts. In A. Ben-Ner, & L. Putterman (Ed.), *Economics, values, and organization* (pp. 296–328). Cambridge, UK: Cambridge University Press
- Ruling of the Court of Appeal of Poltava Region, dated May 8, 2015, case No. 554/3923/15-p.. <http://www.reyestr.court.gov.ua/Review/44079274>.
- Ruling of the Criminal Cases Division of the Supreme Court of Lithuania dated April 16, 2025, in criminal case No. 2K-69-697/2025. <https://www-foilex-lt.skaitykla.mruni.eu/tp/2309044>.
- Ruling of the Hertsa District Court of Chernivtsi Region, dated May 25, 2020, case No. 3/714/194/20. <https://reyestr.court.gov.ua/Review/89450791>.
- Ruling of the Panevezys Regional Court Criminal Cases Division dated October 22, 2019, in criminal case No. 1A-175-366/2019. <https://www-foilex-lt.skaitykla.mruni.eu/tp/1770825>.
- Ruling of the Vilnius Regional Court Criminal Cases Division dated April 15, 2025, in criminal case No. 1A-206-1035/2025. <https://www-foilex-lt.skaitykla.mruni.eu/tp/2308499>.
- Sahlins, M. D. (1965). On the sociology of primitive exchange. In M. Banton (Ed.), *The relevance of models for social anthropology* (pp. 139–236). New York, NY: Praeger.
- Schieffelin, E. L. (1980). Reciprocity and the construction of reality. *Man*, 15, 502–517.
- Sherry Jr., J. F. (1983). Gift giving in anthropological perspective. *Journal of Consumer Research*, 10, 157–168.
- Smith, D. J. (2007). *A culture of corruption: Everyday deception and popular discontent in Nigeria*. Princeton, NJ: Princeton University Press.
- The State Tax Inspectorate. The State Tax Inspectorate applies a "zero gift policy". <https://www.vmi.lt/evmi/vmi-nulin%C4%97-dovan%C5%B3-politika>
- Torsello, D., & Venard, B. (2015). The anthropology of corruption. *Journal of Management Inquiry* Published electronically on April 5.
- Wooten, D. B. (2000). Qualitative steps toward an expanded model of anxiety of gift-giving. *Journal of Consumer Research*, 27, 84–95.

Copyright © 2025 by the author(s) and Mykolas Romeris University
This work is licensed under the Creative Commons Attribution International License (CC BY).
<http://creativecommons.org/licenses/by/4.0/>

