

HIGHER EDUCATION, CORRUPTION AND WHISTLEBLOWERS

Proceedings of the International Conference on Corruption in Higher Education
held on September 11, 2018
at South East European University, Skopje, Macedonia

INSTITUTE FOR STRATEGIC RESEARCH AND EDUCATION

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Introduction: The Horizons of Corruption in Higher Education

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Even in times of intense polarization and lack of public consensus there are two propositions which we might hope would find nearly universal assent. Simply, those propositions are: that corruption is bad, and higher education is good. The former is baked into language itself, because corruption, traced to its Latin origins, means the act of marring or destroying something. We often think of corruption in tandem with “virtue”, the qualities which should be most cherished. And, although innumerable policy questions surround what type of higher education people should receive, for what purpose, and how it should be provided and paid for, the evidence of its importance to national development and individual well-being around the world is too great to countenance a categorical challenge to the mission of advancing higher education. We shouldn’t overstate the consensus - we might not all agree about what constitutes corruption, or on what higher education is for, for example - but it is broad enough that worries about corruption in higher education are very widespread over both space and time.

Beyond platitudes, however, too few people--from citizens to policymakers--in too few countries, have faced up to the catalogue of ignominies that lay at the intersection of corruption and higher education. The consequences of this gap threaten too much for this to continue. A series of scandals on the scale that Spain has experienced in recent months--with numerous leading politicians of multiple parties

having their university degrees questioned--may turn heads, but it isn't just the credentials of a select few that are at stake. The corrosion of education, by whatever mechanism, hurts both those who stand to benefit personally and also those around them, who cannot rely as much as they should on the qualifications of their fellow citizens. Higher education provides both transformative experiences for individuals and profound improvements for society in general, and both possibilities are challenged and demeaned if it is corrupted.

This collection of papers, then, represents an important step forward for both Macedonian higher education and the lives of Macedonians. The conference organizers and the participants have put a spotlight on a range of higher education pathologies and a range of remedies that provide the potential for weakening those pathologies. It's important to be clear, as many participants also point out, that the problem is not at all specific to Macedonia or the wider region; corruption in different ways is a challenge to all systems of higher education and universal vigilance is essential. In the brief overview that follows, we highlight some concerns and themes that animate their work, recognizing in particular that these papers represent a moment: an agenda for both scholarship and action. What are the possibilities that we see in this moment?

The Scope of the Challenge

Mindful of the need to define the problem before setting out to solve it, numerous contributors to this collection appropriately offer definitions of corruption in higher education. Working directly to craft a definition has its rewards, as Olga Koshevaliska and Borka Tushevska Gavrilovik show. A useful definition is general enough to encompass several core concerns and to hold meaning when applied across national contexts. The narrow sense of quid-pro-quo, transactional corruption lay at the heart of the concept, and to be sure, bribery for grades and diplomas remains distressingly common. We suspect also that the #MeToo movement has only scratched the surface of the abuses of power that work systematically to the disadvantage of women in higher education. Among the papers in this collection, Jeton Shasivari usefully extends this analysis across a divide that is commonplace in corruption research: between petty corruption and grand corruption.

Indeed, the individual abuses of power that occur within higher education deserve to be at the forefront of this agenda. But the concept of corruption pulls further: not just the ways that power is exerted over

others, in exchanges concerning the “goods” that universities offer the marketplace (access, credentials, and authority), but also in the loss of virtue, as institutions deviate from core mission values and detract from the confidence and trust that is their lifeblood. In the United States case, the dramatic scale of university athletics exemplifies both the narrow and broad sense of corruption. In recent years, scandals have exposed the financial payments that connect leading athletic coaches to shoe and apparel companies, as well as systems designed to award grades and degrees to underperforming student-athletes who spend frightfully little time in the classroom. The scale and scope of athletics in the American context also demonstrates the broader corruption of a higher education system that, even if no quid pro quo corruption were involved, has undermined its integrity. When a collegiate basketball coach receives a salary of several million dollars, we must ask about the corruption of higher education. There are more subtle, but no less challenging, potentials for corruption in high-value university fundraising and donation.

That broad effort makes space for Sami Mehmeti’s concern with the unseemly world of predatory publication raises issues of corruption, though perhaps in a different way than intended. The fraud conducted upon faculty members by such journals--if *caveat emptor* isn’t enough to shift the blame--reflects the more fundamental corruption invited by the thoughtless incentive structures maintained by universities. Whereas teaching and research excellence could be at the core of personnel practices, too many institutions develop shorthand methods of faculty assessment and promotion that establish flawed relationships to the ideals they seek to promote.

Taking this collection as a whole we can see both a focus on Macedonia, and to the Balkans, as a window into the corruption of higher education--with some responses very specific to local systems--but also as a starting point for thinking about how corruption threatens the values of higher education in a much wider and more challenging way.

Distinctiveness

The projects and papers in this conference’s collection as a whole are tightly connected. As one moment in the wider narrative of global corruption studies, this is not a random sample. Notwithstanding the international and comparative lessons that are explicit to the work of the contributors, the general effort that unites them of course is the desire to understand the dynamics of corruption in higher education in

Macedonia. A project of this nature has much to contribute to the international dialogue on corruption, and we hope that this collection draws the attention of other scholars. We expect that many of these papers will be published in outlets that attract a wider readership. It is useful to pause, then, to consider how the particular origin and frame intersects with the wider ambition.

As one battlefield in the war on corruption, the papers highlight numerous conditions that make this an uphill struggle. Mladen Karadzovski pulls together a range of surveys and reports offering a stark portrait about the embeddedness of corruption within local and national public administration. Hinting at the historic roots of corruption, irregularities appear in the work of public servants and in the desire of citizens to utilize corruption if necessary to smooth their interaction with the institutions of governance. Vlora Rechica similarly paints a concerning portrait for the culture of corruption in Macedonia, focusing on the levels of resignation and cynicism among the youth.

Solutions cannot proceed without careful diagnoses. When corruption studies takes the cultural turn, education usually steps forward as the first line of attack. Blaming “culture” has great appeal in post-transition societies and economies, where a legacy of corruption seems “sticky” and it is difficult to dismiss the historical shadows of the centuries. At the same time, too many post-transition systems also lack well designed institutions. Many are well aware of interventions, such as in the Republic Georgia in the post-Shevardnadze era, where intense focus on specific ills has combined with a wider project of statebuilding to produce concrete improvements. It is possible, though not easy, to shift historical trajectories on occasion.

In the spirit of diagnosis, it is equally appropriate to pause to consider the case of higher education. As Jeton Shasivari helpfully details, corruption percolates throughout the sector, and many parts of higher education institutions and processes have no simple comparison in other industry segments. Some parts are *sui generis*. In the comparative perspective, we would want to take account of countries in which higher education is a particular vicious setting for corruption--say, in admissions and opportunities for faculty advancement--and where it may be relatively less severe than other parts of society, regardless of the absolute level of corruption. In the United States, and increasingly in other parts of the world where students are expected to pay a significant portion of their school fees, a consumer mentality works in multifarious ways to invest students and families in universities and their learning.

This can have disparate effects: in some cases, alumni will fight for the reputation of their institution and work against corruption, while at times alumni will expect that they own the university and can expect favoritism.

From within each country, higher education systems might be described the way some people describe their families: everybody has one, from the inside they always appear both familiar and also a bit weird. Appreciating the distinctiveness of both, the contributors to this collective have created a portrait that invites study by those both inside and outside the system.

Responses

At its best the study of corruption requires committed scholars who are to some degree also activists. Purely theoretical riffs, divorced from both cultural specifics and the nitty-gritty, rough-and-tumble reality of corruption in our lives offer little of practical value. A value-neutral analysis of corruption seems implausible; no scholar of corruption wants to sit idly by. The contributors to this collective fully engage with the commendable spirit of activists: they have a vision for the improvement of systems and society, and are highly motivated to offer practical and viable steps forward. The noble ambition isn't enough, of course. The reduction of corruption remains intensely challenging. The anti-corruption agenda is difficult to develop and implement. Individual-level solutions, seeking integrity and ethics, often extracts a high personal cost.

The potential mechanisms of institutional oversight are many. As a starting point, we might look to the formal law to define the ethical norms and prohibited behaviors the state seeks to control. By the same token, definition is the beginning of non-compliance, as it invites legal creativity and evasion. As another serious concern, the direct regulation of corruption requires oversight and enforcement from the very systems of the rule of law that the norms are meant to control. Indeed, not only does the absence of a credible enforcer often provides the conditions for street-level corruption, but street-level corruption is the warning sign of more systemic corruption. Who can guard the guardians in a culture suffused with corrupt practices?

It should come as little surprise, then, that a number of contributions to this conference turn their attention to whistleblowing. Whistleblowing protections appears to have a number of advantages. Whistleblowing can circumvent the shortage of systematic oversight and

enforcement--and positive, can extend the capacity of the state--by empowering individuals to serve as the eyes, ears, and voices for ethical norms throughout institutions. When whistleblowers join forces with other resources in civil society, such as the media, more effective attention can be paid to corruption than a toothless regulator ever could. Further, like transparency and disclosure regulations, recalcitrant forces within a corrupt system may not oppose whistleblowing as much as they would well-defined substantive expectations and a state regulatory body; there are fewer immediate threats and fewer principled objections.

Aleksandra Deanoska-Trendafilova's analysis of whistleblowing reflects on the developments, in Macedonia and elsewhere, in the protections for whistleblowers. While making a case for the importance of whistleblowers' protections, such systems are also vulnerable, because an array of elements are necessary for the legislation to work in practice. While any positive directions should be hailed, Nikola Tuntevski provides a somewhat more critical account about the limits of protection for whistleblowers. Caution is not only warranted, it may be the ethically justified approach: under what conditions would you counsel a whistleblower to come forward? The realistic threats to such individuals remains a concern. Miso Dokmanovic, Darko Spasevski, and Katerina Shapkova Kocevaska likewise remind us that students may not always be willing to blow the whistle. Out of the close study of the Macedonian Law on Whistleblowers' Protection, we can take comfort in the willingness of university administrators to implement the law. The weakness, they find, is among the students, from their awareness of the law to their knowledge of who to contact.

Into the gaps that emerge in whistleblowing, we find a number of papers attempting to fill those holes with education. The faith behind education is nothing short of the promise of remaking a culture, one student at a time. The challenge, however, is that while education almost always appears as the best solution in the long-run, it's just so difficult to see its impact in a short-term assessment of progress. Vasilka Sancin and Jan Marcic Marusko's account of the training offered by the Faculty of Law at the University of Ljubljana situates university education as the keystone of the anti-corruption agenda, and the concerted effort behind the Ljubljana faculty's work impresses. Snezana Sekulovska and Mirjana Nedelkovska likewise recognize the complexity of the fight against corruption but give special attention to the preventing corruption through education. This emphasis on civil society invites us to consider

the limits of institutional mechanisms. The “holistic” approach of Alban Koci and Enxhi Tamburi goes as far as any to address the ways that education must work against corruption, starting with the hearts and minds of elementary school students.

Delving so deeply into the legal mechanisms and educational supports for whistleblowing throws a bucket of cold water on the hope that there will be a quick fix for corruption. Society is an organic system of infinite moving parts. We may get everything right that we know to get right, and still find ourselves stumped by the slow pace of change. Too often, our contemporary imagination of whistleblowing bears the imprint of the Julian Assange, whose Wikileaks servers have poured forth millions of documents from confidential sources. Much more was at work. In Wikileaks’ prime, a waiting media supported Assange’s technology-driven revelations with coordinated news coverage. Many activists wanted to be a part of the action, too. And then, the practical reality of the fight against corruption is that those who bring evidence forward may be heroes to some but are often complicated and compromised advocates, sometimes with mixed (or unclear) motives. The regulation of corruption takes much more than passage of a law, even if it is a relatively well-constructed law.

Conclusion

Having accepted the task of introducing this collection of conference papers, one of our first thoughts was to consider our position. While we have been very conscious of the distinctions between the countries discussed by these scholars, it may be that our common identity as colleagues in higher education stands out the most. The experience of corruption, though it takes many shapes and expressions, is found in every country and every institution. Corruption, we believe, isn’t mere a formal violation of legal precepts, but an abiding temptation. Corruption appears because higher education is so important: it confers the benefits of knowledge to the students who seek it, and it grants material rewards to those who achieve diplomas and ranks. Though it has no monopoly on wisdom, higher education serves as a key repository of expertise. These qualities are held through trust, and the temptation to violate that trust by exchanging access, grades, and credentials for more worldly favors--or otherwise abusing the power of one’s position--will never be far away.

Knowing the corruption we see in our home institutions and nations, we must give credit to those who have made the decision to

confront it. This collection has taken up the challenge and represents an important step in the fight against corruption. As such, it deserves our attention, both directly for the lessons found here and indirectly for the inspiration and model it provides.

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1.01 Original Scientific Article

Corruption in Higher Education in the Republic of Macedonia: Fiction or Reality?

Jeton SHASIVARI¹

ABSTRACT

One of the fundamental human rights is education. On the one hand, education is an opportunity for progress in a business sense, and on the other hand, from the perspective of the state, the education system is one of the key factors for the development and progress of society. The main idea of this paper is the fact that higher education is not in the vacuum condition, it is not separate from other social processes because it is also under the influence of corruption as a disease of the whole society. In essence, the main problem is the definition of corruption, which in various ways becomes the common behavior of people in every segment of action. The main causes should be sought in the former communist regime, in which everything was corrupted. Also, the media often mask the concept of corruption, with frequent exposure to cases and when it is not necessary to use it. Higher education should be a leader in the fight against corruption, not a captured activity, such as current trends. Corruption at the university is a structural feature, marked through various segments: improper implementation of the Bologna process,

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lack of financial and human resources. Research on corruption in any area is quite complicated in the methodological aspect, because it is about non-visible corrupt actions that are difficult to follow and measure as other visible actions are measured. Hence, the level of corruption in higher education is too difficult to measure. Therefore, more is measuring the perception of corruption than corruption itself in higher education, because the relationship between perception and corruption is sometimes such that the perception index may be higher than corruption itself, and vice versa. Finally, the author will also analyze types of corrupt activities in higher education, which include: ticking tenders, misuse of funds, collecting illegal expenditures, lack of teachers in classes, student exams fraud, abuse of getting a passing or better grade to the students, etc., because corruption in higher education is characterized by the plurality and complexity of forms. Therefore, it is important to explore ways of showing corruption in higher education. So how much does an exam cost? Should small gifts be included as corrupt actions? Should mediators be involved in corruptive actions, or just the provider and recipient of the service? These are all questions that arise, and to which, the definitions of corruption should give precise answers.

Key words: *Corruption, Corruption Statistics, Higher Education, Higher Education System.*

INTRODUCTION

“The greatest crimes are not committed to take what is necessary, but what is superfluous”.
(Aristotle)

It is a great challenge to write about corruption in education sector, especially in higher education that is very rarely spoken in our country and for which there are no systematic mechanisms for its monitoring and supervision. Although the academic community is an autonomous entity, it is not, however, an isolated phenomenon that is not influenced by social trends. Therefore, if there is a high degree of corruption in the other spheres of social life, then it is impossible not to have corruption in higher education as a very important public area whose main function consists in the production of working staff as well as scientific and moral

education of the young people. Corruption in higher education seriously affects the quality of the personnel involved in the labor market, creating social inequality, limited access to higher education, unfair conditions for professional advancement, and reducing the number of quality staff in all areas of social life. There is a strong need to focus on corruption in higher education targeting a society free from corruption because corruption in higher education is particularly dangerous for the fact that the victim here are young people. If the higher education system leaves room for the use of corrupt tools to achieve successful results, the message that will be given by the education system would further promote corruption in society. Students who are involved in corrupt behavior during their studies are likely to be involved in corrupt work in the future as well. This will not only hurt student integrity, but will also provide a way for unethical and dishonorable behavior and will create an environment of frustration and lack of confidence in institutions, and in the long run, this will affect the whole society in general. Young people engaged in corruption during their studies will tend to gain unreasonable advantages by using improper tools such as money, influence or even political power in the future.

GENERAL SITUATION OF HIGHER EDUCATION, SCIENCE AND RESEARCH IN THE REPUBLIC OF MACEDONIA

Considering that, before approaching the issue of corruption in higher education, it is important to address the general state of education, science and research in our country, whereby according to the Macedonian Academy of Sciences and Arts (2017, p. 61), education, science and research and development in the Republic of Macedonia are in deep crisis because there has been no significant change in the treatment of this sphere for a long period of time-the allocations for education, science and research and development to be treated as an investment in the future of the country, not as an expense. The absence of a critical awareness of the importance of knowledge as an ability to penetrate, anticipate and create the future of any society is the main factor contributing to the level of public and private investment in education, science and research and development as a percentage of GDP, to be among the lowest in the region and beyond. Recognizing the need for the Macedonian society to change into a "knowledge-based society, research and technological development" integrated into the only "European Space of Knowledge and Research" and "European

Innovation Union" faces the lack of strategic planning and reliance on all available social creative potentials that would develop, would follow and critically re-evaluate the necessary elements for sustainable development. Hence, the Republic of Macedonia needs major changes and reforms in the key segments of the system of education, science and scientific research.

Regarding the main problems that challenge higher education in our country, according to this Academy of Sciences (2017, p. 62-64, p. 69) the following problems should be highlighted:

- Lack of consistent and scientifically based vision, i.e. a strategy for the development of higher education and science, followed by a program for the medium-term development of higher education and the scientific and research activity, as well as action plans for their realization;
- These areas have not reached a minimum level of unification of the three core activities that determine the contemporary vision of a "third generation university" - education, research and innovative activity;
- The process of reducing scientific research capacities, expressed through stagnation in the restoration of teaching-scientific staff, closing of the institute work, quenching the research cores in the economy and lack of adequate scientific infrastructure;
- The recent implementation of the Bologna Process does not give the expected effects due to the neglect of some of its essential components, which in particular relate to the improvement of the quality of higher education and research activities at universities and the absence of substantial changes in the system of their financing;
- Changes in higher education are mainly reduced to expanding the coverage of students by branching and hypertrophy of the university network 24 universities with over 130 faculties and 600 study programs and the formation of numerous dispersed centers without a well-prepared analytical and predictive basis and hearings, especially from the aspect of the criteria and standards for quality and the needs of the labor market. In the shadow of these quantitative effects, there is a lack of commitment to raising the quality of higher education studies;
- In spite of the legal obligation for regular re-accreditation of higher education institutions (at least five years), no systematic control over the legality of the work of private institutions

operating as trade companies is carried out and which, through drastic commercialization of the activity, demolish and compromise the criteria for quality, both in educational and scientific activity;

- Higher education and scientific institutions in the country do not conduct regular internal evaluation, and examples of external evaluation are, in general, an exception;
- With poor organization and without incorporating the research work, postgraduate and doctoral studies are becoming massive and turn into repeating the knowledge of undergraduate studies, and for the universities, because of their poor financial status, they become a source of additional income;
- Public higher education institutions, the scientific and research activity is completely marginalized and reduced to the necessary minimum;
- The business sector is completely marginalized in the process of strategic planning and programming, management and financing of education and science, which results in evident non-compliance of higher education with the needs of the labor market;
- Policy-making and management of the higher education system, science and research and development have gradually been centralized and have resulted in the suppression of university scientific autonomy and the freedom of creativity, as well as with tendencies of identification and partisation of these key social spheres. Thus, on the understanding of normative illusionism, the method of legislative-administrative solution of the increasingly complex problems prevails in these areas. The frequent amendments to the Law on Higher Education, which foresee the punishment of the administrative bodies of educational and scientific institutions for violation of the provisions, are entering the autonomy of the university and the problems are difficult to solve;
- Public investment in education is maintained at a low level. While in the EU they account for about 5% of GDP, and in the countries of the region about 4%, the indicator for Macedonia is below the average in region. The situation is even worse with investment in research and development. The indicator for the scientific-research intensity - the share of R & D investment in GDP is only 0.22% and is among the lowest in the region;

- The country does not have a well-designed system of financing higher education and science. The existing system is based on palliative, often followed by discretionary, illogical and ad hoc decisions of the central government, which do not guarantee stable sources of funds for the normal functioning of the higher education and scientific research activity in the country;
- The ongoing research related to the quality of higher education in the countries of the Western Balkans, and in this context also in our country, unequivocally confirm that there is a serious gap between the knowledge and skills that education provides and the requirements of the labor market. When analyzing this problem, a distinction is made between the so-called cognitive skills (memorizing and listing-skills, ability to read and write, learn foreign languages, computer skills, etc.) and interactive skills (communication skills, analytical skills, solving skills problems, decisive skills, teamwork and leadership, reacting to emerging situations, adaptability, etc.). In the Western Balkan countries, the interactive gap is particularly emphasized, with a tendency to expand in the future.
- All mentioned problems condition the extremely low efficiency of the higher education system and the labor market in the countries of the Western Balkans. The efficiency is only 13%, which means that out of 100 graduates; only 13 without special problems can find good employment, according to their qualifications, and get involved in the labor market. Also, the alarming situation with the eviction of young highly educated cadres from the ground basically amounts to losing the most vital and most creative segment of human capital. According to data from the Ministry of Education and Science from 2013, in the period from 1995 to 2005, the emigration rate of completed students at higher education institutions in the country reached 30% and is among the highest in the countries of Southeast Europe. The adopted strategy for stopping "brain drain" by the Government of the Republic of Macedonia in 2013 does not seem to give any effects on improving that plan.

GENERAL CONSIDERATIONS ON CORRUPTION WITH FOCUS ON HIGHER EDUCATION

Etymologically, the term “corruption” derives from the Latin word “*corruptio*” meaning depravation, venality, debauchery, payoff, bribery, rotting, decay, forgery (of documents, measures, weights, etc.) (Anić, Š&Klaić, N&Domović, T. (2001), p. 752). According to Josip Kregar (1999, p. 689): “Corruption is the use of public function for personal gain. Corruption is not an isolated phenomenon or a consequence of corruption, or lack of human morality. It is not corruption of people that destroys the political system, but the political system is what corrupts and destroys people. Corruption should be considered as a system effect, a sign that something is wrong with the system. It is the result of a certain model, type of society and its constituent feature. Corruption is thus a social disadvantage, a lack of assumptions, social norms and values that are needed for the normal functioning of a free market economy (capitalism). The primary predatory form of capitalism in global scale is overwhelming. Moreover, because of the consequences that corruption causes, it becomes an unbearable disturbance to the development of international economic relations. Corruption is at odds with the underlying moral postulates of capitalism that justify the exploitation of work and the temptation of a life call, the property is considered sacred and the protection of the private sphere, but hence the pursuit of public services by something that does not belong to the individual as a person, but to the function holder on behalf of all others. Which function is used for personal gain, therefore it endangers the very foundations of the structure of government and the economy”. According to Interpol Group of Experts on Corruption (IGEC): “The corruption is every activity or inactivity of an individual or an organization, either public or private, in violation of law or trust for profit or gain” (Toolkit on Police Integrity, DCAF, 2012, p. 22).

The Resolution of the United Nations Organization defines corruption including all its elements. The bribe may consist of the following elements:

- Direct or indirect promise, giving or offer of any type of payment, gifts or some other profit by any private or public corporation including the transnational corporations or individuals of a country, an Official or an elected representative of another country with the purpose that the same person

executes or restrains from executing public duties connected to a certain international transaction

- Direct or indirect presence, demand and giving of presents, money or some other profit by an Official or an elected representative of a certain country with the purpose of executing the duties of the Official or the representative that are connected to some international business transaction. (UN General Resolution, 1996).

Corruption is a phenomenon that affects many areas of social life in a given country, where the government, the administration, the various employees, etc., can be emphasized, and it is understood that not all of these actors represent the same level of corruption, because based on the perception of the public opinion there are different estimates.

In this context, according to data from a field survey conducted by the Faculty of Security in Skopje in 33 municipalities in 2015, where citizens' attitudes about corruption in the Republic of Macedonia are scientifically described, it can be concluded that doctors receive the most bribes, with 27.8% followed by police officers with 23%, in the third place are public servants in the municipalities with 20.3%, customs officials are represented with 19.8%, followed in fifth place by university professors with 17.5% and high school teachers with 17.1%, etc.

Table 1. Percentage of persons who received bribes by profession, out of the total number of respondents

Civil servant	4%
Public servants (municipality)	20.2%
Police officer	23%
Customs official	19.8%
Inspection services	15.5%
University professor	17.5%
	17.1%
Politician	13.8%
Doctor	27.8%
Judge	14.8%
Prosecutor	8.7
Director of the school	10.5%
The mediator	17%
Other	8.4%

Table 2. To whom and what you gave-to a University Professor

I did not give	82.5%
Other	1.9%
Services of different nature	3.1%
Sponsorship	2.4%
Money on account	2.1%
Money in cash	8.0%

Source: Mojanoski, Cane&Sazdova-Mališ Marina&Nikolovski, Marjan&Krstevska, Katerina (2015), Citizens of the Republic of Macedonia on Corruption (Research Report 2013-2015) (In Macedonian), Skopje, p. 86; p. 89.

These data represent serious indicators of which professions are most exposed to corruption and which persons, members of certain professions, receive bribes according to the results of this research. Analysis of the results indicate that our citizens perceive corruption as a fundamental problem and rank it as one of the more serious problems facing the country, right after unemployment and poverty/low living standards. Regarding the form of bribery, the survey suggests that it dominates: money in cash, then services of different nature or sponsorships. When it comes to the manner of proving corruption according to the answers of the citizens in this research, the least applied measure is with the testimony of the individual, whereas the citizens think that, the best way to prove the corruption offenses is the capture of the corruption act by the competent organs. (Mojanoski, Cane&Sazdova-Mališ Marina&Nikolovski, Marjan&Krstevska, Katerina (2015), p. 89-110).

In this regard, when it comes to the general perception of citizens of the Republic of Macedonia on corruption and bribery, the key findings of a international survey of the United Nations Office on Drugs and Crime (2011, p. 7-8) are quite significant, as follows:

- Citizens of the RM rank unemployment as the most important problem facing their country today (42% of adult population), followed by poverty/low standard of living (24%) and corruption (13%).
- Three quarters of the citizens (75%) interact with the public administration at some point during the course of the year.
- In the 12 months prior to this survey, 10.8 per cent of citizens had been exposed—either directly or through a household member—to a bribery experience with a public official.

- The bribery prevalence rate among citizens who had contact with public officials in the 12 months before the survey is 6.2 per cent.
- There are no significant differences in the prevalence of bribery in urban and rural areas of the country.
- The highest prevalence of bribery is observed in the Southeastern, Vardar and Skopje regions, while in the Southwestern, Polog, Pelagonia, Northeastern and Eastern regions it is below the national average.
- In RM the bribery prevalence rate is 5.3 per cent for women, as opposed to 7 per cent of men.
- Everyone, who reports the payment of at least one bribe, on average, actually pays six bribes or the equivalent of one bribe every two months.
- Almost a half (45%) of bribes are paid in cash and a quarter (25%) as food and drink. The average cash bribe paid in the country is 28,813 MKD, or the equivalent of approximately 470 Euro.
- In about one third (32%) of bribery incidents, citizens initiate the payment, whereas a bribe is explicitly requested in one in four cases (25%).
- The main purposes of paying bribes are to speed up a procedure (50%), to finalize a procedure (12%), or to receive better treatment (11%). However, 12 per cent pay a bribe without any specific purpose.
- More than a half of all bribe-payers pay kickbacks to doctors (58%), more than a third to police officers (35%).
- Of those citizens who refuse to pay bribes, almost 30 per cent refuse to pay doctors and almost one in five (18%) refuses to pay police officers.
- Less than 1 per cent of citizens who experience bribery actually report the incident.
- Citizens do not report bribery because they receive a benefit (17%), because they give bribes voluntarily as a sign of gratitude (13%) or they consider it a good practice (13%).
- Concerns about corruption in the public sector are confirmed by the experience of those who, in the three years prior to this survey, secured a job in the public administration: 6 per cent of them were recruited with the help of a bribe.

- The offer of goods, favors and money to attract voters was evidenced during recent local and national elections in 2008 and 2009: 5 per cent of citizens were approached at local elections and 5 per cent at the last national elections.
- Bribery has a higher prevalence rate than other crimes such as theft, burglary, assault and robbery. This is in line with the rather low crime rate, where citizens feel safe at home after dark and do not use advanced security systems to protect their homes.

In general, according to Hallak, J.& Poisson. M. (2007, p. 26) corruption in the education sector can be defined as, the systematic use of public office for private benefit, whose impact is significant on the availability and quality of educational goods and services, and, as a consequence on access, quality or equity in education. This definition combines three elements:

- It is based on the usual definition of corruption in the public sector that is “the use of public office for private gains”;
- It limits the scope of behaviors under scrutiny to those observed regularly, resulting directly from dysfunctions in the system—thus excluding individual behaviors observed only episodically and resulting primarily from the attitude of a given person;
- It establishes a link between these behaviors and their effects on the system, i.e. a reduction in the resources available, decrease in their quality, and their unequal distribution.

Regarding internal and external factors facilitating corruption in the education sector, according to Hallak, J.& Poisson, M., (2007, p. 64-70) internal factors facilitating corruption are linked to the decision-making and management structure of the education system itself; educational stakeholders can have a direct impact on them. External factors on the other side are linked more to the overall environment in which the education sector operates.

According to above authors, (2007, p. 64-70), some of the internal factors to be mentioned are:

- Decentralization of educational resources—in some context decentralization of the education system decentralizes also the opportunities for corruption, extending them to a large number of individuals.
- Promotion of school-based management—experience demonstrates that the more administrative levels are involved

in the financing of the system, the greater is the risk of fund leakage.

- Development of information and communication technologies (ICTs)–new technologies encourages the emergency of new, large scale forms of academic fraud. As an example one can mention the buying on line of diplomas and term papers from internet.
- Privatization–the privatization of parts of secondary and higher education requires the establishment of reliable accreditation mechanisms.
- Globalization–the internalization of student and job markets flow make it difficult to check on the authenticity of diplomas, hence the market for false certificates is booming.

External factors are also important in explaining corruption phenomena within the education sector, in particular:

- Absence of political will–Many countries have set up anti-corruption commissions in the recent years, unfortunately they have proven to be useless in a number of cases, given the lack of sustained political will at the highest level.
- Decline of ethical values–some authors argue that the stiff repression under the soviet-type regimes in the eastern Europe countries made people living in these countries feel that good practice was not to obey the law. This mentality opens the way for dishonest practices to grow much more easily in transition countries than in Western democracies.
- Low salaries–Salaries within the civil service can be quite low even when compared to countries “per capita” income. This leads very often to teacher offering private tutoring or even seeking a second job.
- Lack of external audit combined with poor judiciary and no right to information. Lack of adequate mechanism of external audit combined with a poor judiciary make it difficult to control the lawfulness and the appropriateness of the decision made within the public sector as a whole.
- No right to information–Lack of knowledge of criteria for access to education institutions, lack of timely publication of data on enrolment, teachers’ lists, examination results and financial flows including fees and so on, are obstacles to information sharing and exposures to the public of the way the public sector operates.

- High competition in the job market–High competition for well paid jobs and fear of unemployment have contributed to inflating the importance of credentials. Main consequence of it for the educational sector is more academic fraud, more pressure exerted on those actors in the system that control decisions and play the role of “gatekeepers” (including attempts to corrupt them).

According to the study of Armin Kržalič (2015, p. 13-14) the term “corruption in the education sector” means a wide spectrum of activities, notably:

- the assessment of student achievement which is not based on merits but on the amount of the bribes received, material services or on the basis of family connections;
- taking a test or an examination for another person;
- embezzlement of funds originally earmarked for teaching materials, building of institutions, etc.;
- accepting bribes from manufacturers for the purpose of selecting teaching materials which are typically of low quality;
- blackmailing students to buy the textbook or manual authored by a particular teacher/professor;
- provision of private tuition to the students from the teacher’s own class;
- use of the properties of education institutions for private or commercial purposes;
- blackmailing students to perform unpaid jobs for administrative or teaching staff;
- abuse and harassment of pupils and students in various ways (physically, sexually, etc.);
- appointments and promotions of the teaching staff on the basis of the bribes received or in exchange for sexual services;
- advance sales of exam questions;
- issue of certificates for papers in the process of their publication and their validation as relevant evidence, i.e. a published paper or faking requirements for appointments and promotions/commission reports;
- publishing activity for promotions – where the school’s managers publish their papers or the papers of acceptable university professors in order to help them fulfil the requirement for promotion to senior ranks, while disregarding the quality of the paper;

- “ghost teachers” – payments made to individuals who are no longer, or have never been, employed for various reasons;
- a high level of absence of teachers;
- licensing privately owned universities or schools in an illegal procedure;
- an artificial increase of pupils and students in order to get more funds;
- bribing accountants so that they do not uncover embezzlement of funds by the persons holding positions of trust or responsibility over those funds;
- embezzlement of funds received from local organizations and parent organizations;
- allocation of funds to some schools in exchange for political support, particularly during an election campaign;
- direct or indirect influence on the commission in order to ensure accreditation of a higher education institution.

According to the above study (Kržalič, A., 2015, p. 23-25), among various internal factors which are conducive to corruption in education are the following:

- The absence of clear norms/standards and regulations. This is a serious problem in the majority of areas of planning and management in education being mentioned, particularly specific fees, management, accreditation and the whole area of public procurement;
- The absence of transparent procedures at every level creates possibilities for corruption. The lack of clear procedures in supervision and disciplinary sanctions creates room for the spread of the “ghost teacher” phenomenon. Here we should add also complicated procedures;
- Monopoly and discretionary right;
- Lack of professional norms. Some countries developed professional norms for teaching jobs. These norms derive from the fact that in a specific situation teachers do not have a clear idea about what they may and what they may not do;
- Low pay and poor incentive systems. Low pay in education combined with low incentives for academic/research work, finances and various projects may lead to bad forms of behavior in both sides of education: administration and teaching;
- Low governance ability. Good governance requires adequate management, enabling accounting and auditing tools and

capacities, i.e. knowledge of how to use them. Low ability of absorption, poor accounting practices and system monitoring and the lack of supervision and controlling mechanisms obviously can create a risk of corruption, such as embezzlement. This is particularly worrying for our higher education because academic activity is linked to management activity. For example, a dean must take care of the quality of teaching process and staff as well as of whether water, electricity and other utility bills and salaries are paid and other running costs covered on time. This system leads to increased abuse;

- The lack of transparency and poor provision of information to the public. The lack of information and its inaccessibility may fuel corruption;
- Modern trends that have impact on the education sector, such as decentralization of education resources, diffusion of new information technologies, privatization and globalization, may not be separated when it comes to internal factors of corruption in the education sector. Unfortunately, in the context of financial limitations, without checks and balances, where there are no reliable information systems, and without the review of mechanisms, it is possible to contribute to reviving and spreading corruption. Some examples of internal factors which revive corruption are shown below;
- Decentralizing education resources: in some contexts, by decentralizing the education system, the possibility of corruption, which spreads to a greater number of individuals, is also decentralized;
- Management: the experience shows that senior management levels are involved in funding of the education system. For this reason, some managers are trying to give funds directly to education institutions, in order to skip the management structure;
- Development of information and communication technologies: development of new technologies encourages the emergence of new, widespread forms of fraud;
- Privatization of parts of secondary and higher education requires the establishment of reliable accreditation systems. But this may be jeopardized in various ways, including accreditation which is based on non-transparent criteria, giving bribes in exchange for accreditation;

- Globalization: internationalization of the student labor markets poses new challenges.

CURRENT SITUATION ON FIGHTING CORRUPTION IN REPUBLIC OF MACEDONIA

When talking about the current situation of fighting corruption in our country, including legal, judicial and institutional aspects, the European Commission Report of 2018 (which covers the period from October 2016 to February 2018) should be treated in detail, because there are found some achievements and some shortcomings. According to this Report (2018, p. 7-8; p. 22-23), as regards the fight against corruption, the country has achieved some level of preparation. The legislative and institutional framework is in place, as well as a track record on both prevention and prosecution, although final court rulings on high level corruption cases remain limited. Corruption remains prevalent in many areas and continues to be a serious problem. The capacity of institutions to effectively tackle corruption has shown structural and operational deficiencies where political interference remains a risk. The country has some level of preparation. The legislative and institutional framework is in place and there is a track record on both prevention and prosecution. However final court rulings on high level corruption cases remain limited. There is some progress on last year's recommendations. There are several high level corruption cases before the courts and the fact that the Special Prosecutor's Office is being allowed to pursue its role could be a turning point in the fight against high level corruption under certain conditions. The amendments to the Law on the protection of whistle-blowers are also a positive step. Corruption is prevalent in many sectors and remains a serious problem. The capacity of state institutions to effectively tackle corruption has shown structural and operational shortcomings. It is necessary to reform the general institutional framework so the State Commission for Prevention of Corruption has clear powers and sufficient resources and can work in full independence. It is essential that the Public Prosecutor's Office against Organized Crime and Corruption genuinely and systematically conducts investigations. It is also essential that the Special Prosecutor's Office is empowered to continue its work. The mandate and interaction framework for all State institutions have to be precisely set out. In the coming year, the country should in particular:

- reaffirm its political will to fight corruption by providing institutions active in the prevention and repression of corruption with the necessary autonomy, resources and specialized staff hired on the basis of merit;
- further improve its track record on investigations, indictments and final convictions in high level corruption cases, including through financial investigations in line with Financial Action Task Force on money laundering standards and the seizure and confiscation of criminal assets;
- take all necessary measures to integrate the Special Prosecutor Office within the prosecutorial system on a permanent basis to complete the establishment of the legal accountability of the wiretaps.

According to above Report (2018, p. 7-8; p. 22-23), while a track record on corruption cases was created years ago, there has been weak investigation, prosecution or convictions for high-level and political corruption. Until December 2017, 6 investigations had been opened by the Public Prosecutor's Office against Organized Crime and Corruption against officials. Five of these cases were for abuse of official position and authorization, and one case was for accepting a reward for unlawful influence for which an indictment was issued. Since its establishment in September 2015 as per the "Pržino Agreement", the Special Prosecutor's Office has opened 26 investigations, and indictments were confirmed in 17 cases. On 8 November 2017, a sentence of one and half years' imprisonment was pronounced in one case against one defendant. It has been a challenge for the State Commission for Prevention of Corruption (SCPC) to play a leading role in preventing and fighting corruption, considering criticism about its lack of independence, and its weak mandate and powers. The SCPC was active during the election period by providing interpretations of legal issues. In March 2018, five out of seven members of the SCPC, including its President, resigned following public reactions to the findings of the State Audit Office on alleged financial irregularities. The Public Prosecutor's Office (PPO) is investigating the case. On conflict of interests and verification of assets, figures indicate a slight renewed activity from the SCPC. Apart from systematic verification of statements of interest received from newly elected and appointed officials, the SCPC made regular verifications of 459 statements of interest sent by various categories of public officials between January and November 2017 (against 627 in 2016) and a conflict of interest was established in 67 cases so far (17 cases are still pending final

conclusions). A misdemeanor procedure was initiated against 1 official, resulting in a public warning. The procedure for determining the existence of a conflict of interest was launched in 149 cases, 62 upon SCPC initiative (41 in 2016) while the rest was upon requests submitted by officials, their superior or anonymous complainants. A total of 77 cases were closed. In one case the initiative to remove the official from office was launched. The SCPC initiated 4 proceedings for disciplinary proceedings (only 1 in 2016). On verification of assets, the number of requests sent to the Public Revenue Office to check assets discrepancies has slightly increased (20 in 2017 including 18 from the SCPC against 15 in 2016). There are an increasing number of requests by SCPC to the Public Prosecutor's Office to launch misdemeanor proceedings for failure to declare assets (48 in 2017 against 26 in 2016). Between December 2016 and February 2018, 116 criminal proceedings for corruption related offenses were initiated by various institutions such as Ministry of the Interior, financial police or basic public prosecution office. There are no initiatives by the SCPC. The SCPC played a minor role in monitoring election campaign financing together with the State Audit Office, the State Election Commission, and the Public Revenue Office and law enforcement bodies. Internal measures are implemented in state institutions to prevent and fight corruption. The Anti-Corruption Programme of the Ministry of the Interior for 2018 was adopted together with an action plan for the implementation of the said programme. It sets up the values, policies and procedures to be applied for detection of corruption in the Ministry of the Interior, and their sanctions. In the course of 2017, the Department for Internal Control, Criminal Investigations and Professional Standards started 15 individual disciplinary procedures (7 in 2016) including request for removal from office against 7 employees. The Unit also initiated criminal proceedings on 13 corruption-related charges against those (8 criminal charges against 8 employees in 2016). The charges were dropped in one case, fines were pronounced against 6, the remaining proceedings are not completed yet.

According to above Report (2018, p. 7-8; p. 22-23), it is still a challenge for the SCPC to implement a meaningful policy of corruption prevention. Without investigative powers, the SCPC is limited to the administrative verification of data on conflicts of interest and assets. Nevertheless, the SCPC could refer the cases to the Public Prosecutor's Office for further investigation. To facilitate the control of assets and statements of interest, the SCPC may also use the electronic register of

elected and appointed officials which finally became operational this year. Establishing a central register of such officials was an "Urgent Reform Priority" but for those who failed to submit statements of conflict of interest or declaration of assets, the verification procedures and the system of penalties is still fragmented and inefficient. The State Programme for prevention and repression of corruption and prevention and reduction of conflict of interest 2016-2019 and the relevant action plan are being implemented albeit hampered by lack of funding. Efforts are currently underway to improve the transparency and accountability of public institutions and state enterprises and public expenditure through the Public Finance Management dialogue. They should be complemented by an effective and timely control mechanism of public procurement, concessions, public-private partnerships and execution of public contracts. This mechanism should include an administrative penalty system. The State Audit Office's IT infrastructure has been improved but it is still not interconnected with other relevant institutions. In addition, the roles of relevant institutions need to be clarified to enable control of political party donors and assets received and owned by political parties. The track record on control of party and campaign financing remains almost unchanged. Existing penalties under the Law on the prevention of corruption and the electoral code need to be applied in a more systematic and visible manner. Access to public information improved during the reporting period. The National Commission for the protection of the right to free access to public information stated in its annual report that the number of complaints increased to 758 in 2017 (960 in 2015, 619 in 2016). The authorities began to disclose information in areas such as budget expenditure, procurement, the operation of law enforcement authorities and the judiciary. But the National Commission for the protection of the right to free access to public information is still criticized for its lack of functional independence. The legal framework for the fight against corruption is broadly in place. The Criminal Code penalizes a wide range of corruption-related offences. To strengthen its effectiveness, it is necessary to clearly lay down the respective control and investigative powers and responsibilities of the State Audit Office, the SCPC, and the State Election Commission and law enforcement agencies. The recent amendments to the Law on the protection of whistle-blowers, enacted in 2018 in line with the recommendations of the Venice Commission, could contribute to reinvigorating interest of citizens and civil servants in denouncing corruption (European Commission (2018), p. 25-26).

CONCLUDING REMARKS

Corruption in higher education is the main obstacle to reforming the education system in South East Europe and acceptance of European standards in higher education. It is generally believed that corruption in higher education is neglected form of corruption, therefore, we need to deal with corruption that most affect us, and try to change it and influence the reform process of the education system, in order to become better, more efficient, more transparent, and with the possibility of control. When addressing identified factors which lead to corrupt behavior, it is important that the managers of higher education institutions react promptly as soon as they have identified a problem, because swift response is key to success. In order to suppress identified corrupt behaviors at higher education institutions, it is necessary to establish an increased interaction between students and their teachers, between the public and the academic community, the academic community and inspection services, and between the academic community and institutions responsible for the prevention of corruption in order to increase understanding and trust on all sides. The voice of all interested parties should be heard and this should take place in a transparent manner. It is necessary to adopt and to implement the common strategy by all universities in our country in combating corruption. Also, the adoption of internal academic acts in universities that will regulate more in detail the corruption, i.e. measures to prevent and combat corruption in universities. It is necessary to provide protection to persons reporting corruption actions. When we are at this point, one that should take into account is the possibility of abuse by these persons, namely the reporting of a corruption action can be a “double-edged sword” because it is the right of everyone, but on the other hand, it must not be abusive, and any abuse must be sanctioned, especially when this reporting is not carried out in accordance with the legal requirements, because in such a case, the whistleblowers will have to be responsible for recovering the damage and even being criminally responsible because the false reporting of a criminal offense as well as submission of false proofs are sanctioned as criminal offenses in the Criminal justice system of our country.

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1.01 Original Scientific Article

Building Capacities for Preventing Corruption in Higher Education in Macedonia

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ABSTRACT

Publius Cornelius Tacitus, has given a very unusual equation that more or less turned out to be true in the case of Macedonia. He stated „Corruptissima republica plurimae leges - The more laws one state has, the more corrupted it is”. Hence, we have numerous of laws that define, incriminate, fight, detect and prevent corruption but still the general impression is that we have more and more corruption and that we are far from the point we want to achieve. The purpose of this article is give a short introduction on corruption in general and on corruption in higher education in Macedonia. We will make a strong effort to elaborate its phenomenology and etiology in higher education in order to see where we are and to be able to come to relevant conclusions and give recommendations for successful fight against corruption in higher education. In order to be comprehensive we will elaborate the relevant laws for fighting and preventing corruption in higher education and we

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will try to estimate the potential of our legislation for successful fight against corruption in higher education. We are of the opinion that we have solid legislation background but our weak spot lies in their implementation and the real possibility of the implementation of the provisions of the relevant laws. We have to work on building capacities especially in those areas where corruption often occurs.

Key words: *corruption, higher education, crime, prevention, whistleblowers, Macedonia.*

*Power tends to corrupt, and absolute power corrupts absolutely.
An observation that a person's sense of morality lessens as his or
her power increases.*

Lord Acton, 1887, Letter to Bishop Creighton

*"It is said that power corrupts, but actually it's more true that
power attracts the corruptible. The sane are usually attracted by other
things than power."*

David Brin (2018, August 30th)

INTRODUCTION

The origin of 'corruption' comes from the Latin terms *corruptus*, or *corrumpere* which mean spoiled or break into pieces, accordingly (2018, United Nations Documents). In Medieval Latin this word expressed a *moral decay, wicked behavior, putridity, rotteness*. This Latin meaning was consistent with the classical notion of corruption, which in ancient Greece referred less to the actions of individuals than to the moral health of whole societies (Osipian, 2007, p. 314). From historical perspective, in the Roman law, there were different types of courts that had the mandate to convict different types of corruption. (Gurkova, 2010). First court established to convict corruption was known as *Quaestio de repetundae*.

The problem with corruption in higher education is that corruption in higher education is seen as an isolated incident and not in a manner as a systematical problem that could eventually bring to devastating consequences. Higher education is often a desired area of influence due to the prestigious status enjoyed by the academic community. Education predetermines the quality of human resources of the state, has the key significance for its competitiveness. The problem of corruption in high education prevents its development and is an obstacle for the accrediting of universities by international organizations and accreditation agencies.

For ourselves, in our present circumstances, defining, recognizing, and naming corruption—privately and publicly—are perhaps our first, most important steps in challenging and changing it. Until we recognize corruption in all its many appearances, we remain its unwitting victims (Duncan W. 2018, August, 29th), because corruptions causes erosion of the rule of law.

Corruption in many national educational systems has a systemic character, is endemic to the society, and often reaches epidemic proportions. (Osipian, 2013, p.218) *Access to education, academic grades, term papers, degrees, credentials, and honors are all for sale. Professors of all ranks in many countries are totally underpaid along with other public employees. They abuse their position in order to sustain themselves. Chronic underfunding, poor coordination, lack of transparency and control result in an education system riddled with all types of misconduct, from outright bribery and kickbacks to cronyism and ghost teachers, and from grand scale embezzlement and fraud to gross waste and petty theft.* (Osipian, 2013, p.219)

DEFINING CORRUPTION

Defining corruption in general

There are numerous definitions for corruption and therefore it seems that every time one starts to find the appropriate one, ends up more confused than before he read the first definition for this phenomenon. This is because corruption has so different phenomenology, its finds so many shapes and forms as if it is a chameleon. Nonetheless, an international definition of 'corruption' does not exist, as this would raise legal and political complications.

Consequently, different understandings of 'corruption' are given by multiple jurisdictions according to their own cultural conceptions. Corruption should therefore be viewed as a complex and multilayered phenomenon, with a multiplicity of causes and effects, as if it shows many different forms and functions in various contexts, ranging from single act that transgresses a law or laws, to being a way of life for an individual, group of people, or societal order, which is morally acceptable (Brooks, Walsh, Lewis, Kim, 2013, pp.11-26).

For the purpose of this article, we will use the broadly used definition by Transparency international and that is "misuse of entrusted power for private gain". According to this definition corruption "hurts everyone who depends on the integrity of people in a position of authority".

Corruption, in terms of the Macedonian Law on preventing corruption (*hereafter LPC*) means *misuse of office, public authorization, official duty and position for the purpose of gaining any benefit for oneself or others*. (Article 1-a). The purpose of this Law is to regulate the measures and activities for prevention of corruption in the exercise of power, public authorizations, official duty and politics, measures and activities for prevention of conflict of interests, measures and activities for prevention of corruption in undertaking activities of public interest by legal entities related to execution of public authorizations, as well as measures and activities for prevention of corruption in trade companies. For this purpose, special State commission for Prevention of Corruption was established. This law and its relevant provisions that can address corruption in higher education will be specially elaborated in the next chapters.

Defining corruption in higher education

Defining corruption in higher education is even more problematic than defining corruption in general. *Agreed-on definitions are rare, and definitions of corruption run the gamut from being too broad as to be rendered relatively useless to being too narrow and thus be applicable to only limited, rare, well-defined cases* (Waite D. & Allen, 2003, p.281-296). As Stephen P. Heyneman (Heyneman, 2004, p.637-648) states the definition of education corruption *derives from the more general set of corruption issues*. Like other areas, it includes the abuse of authority for material gain, but because education is an important public good, its professional standards include more than just material goods. Hence, the

definition of education corruption includes the abuse of authority for personal as well as material gain (Feoktistova, 2013, pp.167 - 172). Ararat L. Osipian, in his article „Corruption in Higher Education: conceptual approaches and measurement techniques” (2007) offers more operational definition of corruption in higher education. He defines it as *a system of informal relations established to regulate unsanctioned access to material and nonmaterial assets through abuse of the office of public or corporate trust. This definition points to the systemic character of education corruption, extends the realm of corruption in education to both public and private higher education institutions, and allows for research of corruption and its impact on access, quality, and equity in education. For instance, a faculty member in a private for-profit college abuses public trust by assigning a positive grade to a student without academic merit. Exchange of academic credentials for a bribe or based on kinship constitutes corrupt transaction independently from the form of property of the higher education institution as long as the public is deceived. This case represents corruption in higher education even if the state is not involved in terms of ownership, management, control, licensing, and accreditation. (Osipian, 2007, pp.314-335).*

PHENOMENOLOGY AND ETIOLOGY OF CORRUPTION IN HIGHER EDUCATION

The line between what can be considered ‘corrupt’ and ‘non-corrupt’ behavior is not always obvious – especially in the absence of clear rules and regulations. An example frequently mentioned in this context is that of gifts: In some societies, people are used to giving gifts, including to public officials and teachers that is seen as part of socio-cultural relations, it is a part of their tradition expressing thankfulness and has nothing to do with corruption. According to some traditions or customs of certain cultural communities, whereby the present gift is regarded as an expression of gratitude and presenting respect to the public official for the work completed within his legal duty. Refusing or denying such a symbolic gift to certain cultural communities is considered to bring bad luck (Labovik, 2006, p.69). Taking into account the low, almost insignificant value that the gift has, this behavior has no penal basis and is seen as an indivisible component of the community culture.

In other societies, it is strictly forbidden for public officials to accept gifts. This is often mentioned to argue that corruption is a cultural concept, which has no universal significance. However, these views are contradicted by reality: Experience shows that, in all cultures, people have a clear perception of what should be tolerated and what should not, even when the system of rules and regulations is weak or non-existent. To return to the example of gifts, most people make a difference between a gift of low monetary value, which is given as part of a social exchange with nothing expected in return, and a gift of higher monetary value given in the hope of obtaining some favor in return (Hallak, Poisson, 2007, p.29). However, as the value of a gift can be assessed differently according to the context, and as the intentions of the author and beneficiary of a gift are sometimes difficult to decipher, there is indeed an ill-defined border between corrupt and non-corrupt behavior. Within these grey lines, which may be found in different areas (such as teacher absenteeism or private tutoring), it may prove more appropriate to talk of ethical and non-ethical behavior rather than of corrupt and non-corrupt behavior. One way to draw the line between ethical and non-ethical behavior involves evaluating the impact of the behavior concerned on the system. Private tutoring, for instance, does not necessarily have a negative impact on the system. It may be justified on grounds of educational quality and equity when it compensates for weak public education. (Hallak, Poisson, 2007, p.29)

There is a diversity of forms of corruption in higher education. Corruption in higher education is not limited to academic corruption, nor is it limited to bribery. Bribes are but the most explicit manifestations of corruption in education. Other forms of corruption include embezzlement, fraud, nepotism, clientelism, patronage, cronyism, favoritism, kickbacks, cheating, plagiarism, research misconduct, ethics and sexual misconduct, and abuse of private property. Corrupt practices in education may also be linked to academic publishing and distribution of textbooks, mismanagement, misallocation of public resources, and gross waste. (Osipian, 2007, pp.314-335).

Osipian states:

Forms of corruption point to corruption opportunities in higher education. The room for corrupt activities exists in just about every national system of higher education. Areas and functions susceptible to corruption include selection and training of students, research, publishing, hiring and promotion of faculty, management of public funds and public property. There are also

opportunities for misconduct in university medical centers, connections with pharmaceutical industry, copyright, intellectual property and piracy. Bribery in admissions and academic process is more common for transition and developing nations. Embezzlement, research fraud, breach of academic integrity, diploma mills, and educational credentials fraud can be found in the developed nations, but they are also commonplace in the developing nations. Cheating and plagiarism among students and faculty members are characteristic of educational systems in developing and developed nations. Presence of significant governmental funding of higher education, public property, and monopoly of educators over access to higher education and educational credentials, along with the lack of transparency, accountability, coordination, and control are all fundamental for corruption opportunities in education. Discretionary power of educators, public funding, and increasing demand on higher education that exceeds the supply are necessary for corruption to perpetuate. (Osipian, 2007, p.314-335).

Some authors, like Rumyantseva, (2005) are of the opinion that corrupt activities are divided into activities that do not involve students and have a limited effect on them and activities that involve students as main actors and have an impact on their value systems, beliefs and life chances.

There is one more type of corruption that is typical for modern society but has its origins in the Roman law, and that is the 'quid pro quo' corruption commonly known as 'favor for favor' (Gurkova, 2010, pp:117-127) or trading with influence. How this type of corruption can occur in Higher education? Well, in most simple scenario, the students who have parents who are performing some public duty, get high grades with low effort, just because in near future the professor can benefit from that 'favor' and have an advantage when he/she has some private or public matter with these parents.

Etiology

Why is corruption — the misuse of public office for private gain — perceived to be more widespread in some countries than others? Different theories associate this with particular historical and cultural traditions, levels of economic development, political institutions, and government policies. (Treisman, 2000, pp.399-457) We are of the

opinion that corruptive behavior is result of the general understanding and culture, as well as the established social relations between people. Generally accepted standards of behavior are reflected in the academic community as well. Therefore, if there is a high degree of corruption in other spheres such as health, police, public procurement, it is almost impossible not to have corrupt phenomena in the field of (tertiary) education. This is due to the habit of the population to receive services from public institutions with corruptive actions. (Zivkovik, 2016, p. 25).

According to Zivkovik, there are few main factors for corruption in higher education: economic development and life standard of the country, the process of transition and the influence of the political parties.

First in line is the economic development and the standard in the state. According to Transparency International, countries with a lower standard of living have a significantly higher degree of corruption in education than those in which citizens have higher incomes. This is due to: (1) a struggle for easier acquisition of skills and diploma, and faster and better positioning on the labor market, (2) professors and academic staff consider themselves under-paid for their work (3) general notion of mistrust in state system and public services. (Zivkovik, 2016, pp. 25-26) In such countries, due to socio-economic status, people are more dependent on state apparatus and more difficultly oppose corruption, or recognize it as harmful. However, it is important to note that corruption is not an exclusive feature of poor countries or developing countries, but that it exists in more developed countries (Hallak & Poisson, 2002).

Next is the transition from one to another political or economic system. Thus, one of the main reasons for the high level of corruption in higher education in transition countries is considered to be: (1) the decentralization of education and decision-making, which makes it difficult to monitor finances and relations in the academic community; (2) lack of knowledge of higher education institutions to independently deal with corrupt phenomena; (3) difficulties in finding an adequate model for financing education, which leads to poor allocation of resources and reaching for unethical methods of communication education/advancement by the academic community; (4) weakening of ethical and moral social norms. In this regard, it is also discussed that in the transition period universities have the task of producing as many staff as possible in order to help the general well-being of the population, without promoting adequate legislation and policies to prevent unwanted consequences.

Zivkovik points out the influence of the political parties on the corruption of high education. According to this researcher, Universities even though have their full autonomy according to the laws, they are not 'immune' from the impact of the political parties. Political parties have ambitions to influence on the decision-making bodies in higher education as well as to insist on involving individuals close to their parties in the governing and decision-making bodies of universities and faculties. There are frequent examples where positive changes are hardly possible precisely for this reason. (Heyneman, Anderson, Niraliyeva, 2008).

LEGAL FRAMEWORK IN PREVENTING AND FIGHTING CORRUPTION IN MACEDONIA

With the amendments of the Criminal Code passed in 2004 and the amendments and harmonization of the substantial and procedural criminal laws with the international instruments in the past two decades, the legal framework for the fight against corruption has its real outline. In addition, our lawmaker to prove to the international society, that it has willingness to fight and prevent corruption, passed three laws that were more than needed in this field, and those are The Law on prevention corruption, the Law for prevention the collision of interest in 2017 and finally the Law on protection of whistleblowers in 2016. The law on whistleblower protection, adopted in the spring of 2016, regulates the protected disclosure of information, the rights of the whistleblower, as well as procedure and the duties of the institutions involved, meaning the legal persons serve to safeguard protected information disclosure and the securing of whistleblower protection.

The most general framework for measures and activities for preventing corruption is contained in the Law on Prevention of Corruption. This law is relevant for the professors and other employees in higher education institutions, as public officials who work in public interest. With this law, the legislator made an effort to strengthen the basic principle of the criminal law and that is the principle of legality.

This law provides that it is strictly prohibited using official duty for private interest. No one must use the office, public authorization, official duty and position to commit or omit an action, which, by law, must not, that is, must be performed, nor to subject the execution of a legal action to one's own personal interest or other person's interest. (Article 2 ph.2

of LPC) A person performing public interest activities must not abuse his/her position in order to obtain personal benefit. If there is grounded suspicion that the property of this person or of a member of his/her family has been increased in disproportion to his/her regular revenues or the revenues of the members of his/her family during the period of performance of the public interest activities, the Public Revenue Office, upon its own initiative and on request of the State Commission, shall initiate a procedure for examination of such property. The procedure shall be conducted in accordance with Article 36 and Article 36-a of the LPC.

Other provision from the LPC that can be connected to higher education is the prohibition against performance if other activities. Namely, an elected or appointed person cannot perform any other office, duty or activity incompatible with his/her office during his/her term of office. (Article 21 of the LPC) This means that professors and other employed staff in the university cannot perform any other activity resulting in earning profit, which is incompatible with his/her, official duty. However, the official can perform other works and activities only upon prior approval by the functionary heading the body (University Senate or the Scientific Council, in this case).

The LPC also provides that there is a restriction in the cooperation with legal entities. An elected or appointed person, as well as other official or responsible person in a public enterprise, public institution or other legal entity disposing of state capital cannot, during the performance of his/her office, that is service, establish business relationships with a legal entity founded by him/her or by a member of his/her family, or in which a member of his/her family is the responsible person, and if such business relationships have been established earlier, he/she shall be obliged to exclude himself/herself from any decision-making and to notify the State Commission thereof. Zivkovik gives a very good example to this provision in cases of higher education: when a professor through his own printing company, or through a company of his relative prints textbooks. Another example where this is applicable is the case when a teacher offers student services through subjects that are guided by his relatives or by himself. Also, this provision prohibits the appearance as a professor or manager of a higher education institution to conclude cooperation agreements with companies managed by them or their relatives, who perform services that need students to organize excursions, offer printing services, organizing graduate celebrations, photographing students, etc. (Zivkovik, 2016, p. 69).

There is a general provision *on prohibition against receiving gifts* (This prohibition is also regulated with the Law for employees in the public sector). Namely in Article 30 of LPC it is provided that an elected or appointed person, official and responsible person in a public enterprise or other legal entity disposing of state capital must not receive personal gifts or promises of gifts, except occasional gifts such as books, souvenirs and alike having value determined by law.

The Conflict of private and public interest used to be regulated with the LPC but now those provisions are implemented in the Law on Prevention of conflict of interest. This Law shall define the conflict of interest, the actions to be taken in case of conflict of interest, the measures for prevention of conflict of interest in the exercise of public authorizations and duties by officials. The purpose of this Law is to ensure prevention against abuse of public authorizations and duties of an official for self-interest or the interest of the affiliated persons and to ensure prevention of possibility the private interest of an official to jeopardize the public interest. (Articles 1 and 2 of the Law on Prevention of conflict of interest, hereafter LPCI)

According to Article 40 of this law in cases of unlawful requests of the superior an official that is requested by his/her superior or an elected or appointed person to act contrary to the Constitution, a law or other regulation while performing his/her service shall be obliged to point that out to the person issuing the order. Provided that the direct superior, even upon the oral notification, repeats the order, the official shall immediately notify in writing the directly higher superior than the one that has issued the order and the State Commission. After the written notification, the official shall be relieved of the obligation to perform the illegal action and cannot be held liable thereof.

This Law also prohibits exerting influence over others. This is especially relevant in cases of bringing important decisions in the University Senate or the Scientific Council. According to provision in Article 42 an elected or appointed person, as well as other official or responsible person in a public enterprise, public institution or other legal entity disposing of state capital must not use his/her position to exert influence over an individual in a state body, public enterprise, public institution or other legal entity with a view to adopting or not to adopting a certain decision, to do something, to omit or suffer something in order to gain benefit, convenience or advantage for himself/herself or others.

There is a strict prohibition of offer for bribery in this Law as well. In Article 44 it is provided that an elected or appointed person, as well as other official or responsible person in a public enterprise, public institution or other legal entity disposing of state capital that has been offered a bribe shall be obliged to undertake measures for identification of the briber and to report him/her to the competent body. In case of charges for corruption for a full-time professor, the University Senate must be informed because the University Senate is the body in which full-time professors are elected or appointed, and in case of charges for corruption of associate or assistant professor, or assistants or other scientific personal, the Scientific Council of the Faculty must be informed without any delay.

Other Law that we analyzed in this article is the Law on Public Sector Employees. Relevant provisions from this law are the provisions for prevention of conflict of interest (article 12) and the prohibition on receiving gifts (Article 39).

Incriminations from the Macedonian Criminal Code, that can be applied in cases of corruption in higher education are the following: From the Chapter 30: Crimes against official duty: Abuse of official position and authorization (Article 353), Unscrupulous operation within the service (Article 353-c), Embezzlement in the service (Article 354), Defraud in the service (Article 355), Use of resources for personal benefit while in service (Article 356), Taking bribe (Article 357), Giving bribe (Article 358), Giving a reward for unlawful influence (Article 358-a), Accepting a reward for unlawful influence (Article 359), Unlawful obtaining and covering property (Article 359-a), Disclosing an official secret (Article 360), Falsifying an official document (Article 361), Unlawful collection and payment (Article 362). From the Chapter Crimes against the property, the following crimes: Unauthorized acceptance of gifts (Article 253), Unauthorized giving of gifts (Article 253-a), Purposeful creation of bankruptcy (Article 254), Causing bankruptcy by unscrupulous operation (Article 255), Abuse of bankruptcy procedure (Article 256), Damage or privilege of the creditors (Article 257). This list is not final, other incriminations can be cases of corruption in higher education as well, such as Sexual assault by position abuse (Article 189), provisions that incriminate misconduct in the procedure for public procurement etc.

We have to have an efficient legal system for preventing and repression on corruption in order to expect the implementation of the rule of law.

In order to have successful fight against crime, it is essential to protect the ones that report it. In many cases, evidence of corruption only surfaces with the help of witnesses or victims of the corruption. Therefore, with the LPC it is provided that everyone that has discovered data (collaborators to justice and witnesses) that suggest existence of corruption cannot be criminally prosecuted or held liable in any manner. A person that has given a statement or testimony in a procedure for an act of corruption shall be given protection in accordance with law. The person shall have the right to compensation of damage he/she or other member of his/her family may suffer due to the given statement or testimony.

By their very nature, carrying out or being implicit in corrupt acts relies on secrecy and discretion (Kreutzer, 2016, p.8). It is in the clear interest of both parties involved - the briber and the recipient of the bribe - that details of illicit transactions do not become known. Participation in such transactions makes both parties liable to face prosecution under the relevant criminal law provisions. These witnesses are usually placed under considerable pressure and often find themselves being deliberately and incorrectly identified as informers by those involved in the illegal operations. The informant, witness, or whistleblower plays a special and prominent role in both the repressive and preventative approaches taken in the fight against corruption (Kreutzer, D. 2016: p.5).

How is whistleblower defined according to our laws? A *whistleblower is any individual who, with good and ethical intent, endeavors to supply information about a perceived and intentional past or future case of misconduct in public office or the private sector.*

In order to expect some individual to stand up and report corruptive or illicit acts the state must guarantee that both his/she's identity and the data or information supplied are afforded special protection. The whistleblower is also able to safely share this information with the Ministry of the Interior, the Public Prosecution, the State Commission for Prevention of Corruption, the Ombudsman, and other relevant institutions in the event that the information relates directly or indirectly to a leading figure of a corresponding institution, or the whistleblower receives no information regarding the provisions enacted within the 15 day period, or no provisions are enacted as a result, or the whistleblower is dissatisfied with the provisions or is able to determine prejudice aimed at them personally or at someone close to them. In the case that the receiving body is not authorized to accept the

information, the said receiving body should relay the information to the relevant body within eight days of receipt of the information and inform the whistleblower of this. The aforementioned government bodies are also required to implement the relevant protectionary measures for the protection of whistleblowers. Moreover, these bodies are obliged to provide the whistleblower with follow up information and report on the enacted provisions that have come about because of the information provided. The whistleblower is also granted the right to view the relevant documentation in accordance with the law on whistleblowers' protection, if the whistleblower so wishes. The above-mentioned bodies are also obliged to inform the whistleblower of the results of the proceedings. (Kreutzer, 2016, p.7)

Categories of persons, who may acquire the role of a whistleblower, are: 1. a person, who has a fixed-term or permanent contract of employment with the institution or the legal person, related to his/her information disclosure; 2. a candidate of receiving an employment contract, a candidate for a volunteering position or an intern with the institution, related to his/her information disclosure; 3. a person, who currently is or has been a volunteer or an intern in the institution, related to his/her information disclosure; 4. a person, who has been engaged in any other way with the purpose of executing work activities by the institution, related to his/her information disclosure; 5. a person, who has been or is in a business relation or in cooperation with the institution in any other way, related to his/her information disclosure; 6. a person, who has been using or is using services in the institution or the legal person in the public or private sector, who is related to his/her information disclosure. (Kreutzer, 2016, p.6-7)

However, not always the act of the whistleblower can be seen as an act of rightful reporting that a crime will occur. Sometimes the whistleblower may report crime form tendentious, insidious or dishonest reasons or just to harm the reputation of some authority or official. If it can be determined that the whistleblower is abusing their position as a whistleblower by engaging in the dissemination of false information about natural or legal persons with the purpose of damaging them, or if the whistleblower had not paid expected attention in a scrupulous manner to the degree, required by the provisions and had not verified, whether the information is valid or not, the whistleblower cedes the protection otherwise granted to them under this law. In particularly serious cases, where it is clear that the natural and legal persons have

suffered a disadvantage as a result, proceedings against the alleged whistle-blower can be brought. (Kreutzer, D. 2016: p.13)

BUILDING CAPACITIES FOR PREVENTING CORRUPTION IN HIGHER EDUCATION IN MACEDONIA

For the purpose of more efficient prevention and protection against corruption, the new Law on Higher Education includes provisions for appointing an authorized person, from the employed full-time professors, for receiving reports for corruptive behavior. By this means, the University Senate, elects an authorized person for receiving corruption charges from the employed full-time professors in the University (Article 107 and also Article 94 ph.39 from the Law on Higher education). The reporting of corruption shall be carried out verbally on a record or in writing. The authorized person for receiving corruption charges shall be obliged: 1. to act upon the reporting of corruption in accordance with the established procedures; 2. to protect the applicant's personal data, that is data that can reveal the identity of the applicant who asks to be anonymous or confidential, in accordance with the regulations for the protection of personal data and 3. inform the applicant who is known about the measures taken regarding the application without delay, and at the latest within 15 days from the day of receiving the application. The authorized person for receiving corruption charges shall be elected for a period of three years, with the right to one more nomination. The authorized person for receiving corruption charges at least twice a year shall submit a report on his work to the Senate of the University. In addition, there are provisions that prohibit nepotism in the appointing of the commissions for master and PhD thesis.

We are of the opinion that we have legislation background, but our weak spot lies in their implementation and the real possibility of the implementation of the provisions of the relevant laws. Even though the legislators have found some kind of a solution in the new Law on Higher Education (Article 107 and also Article 94 ph.39 from the Law on Higher education), that still is not good enough to fight against this erosive crime. This type of provisions are only expressing the declarative nature of the legislator that provisions against corruption are part of the legislative for higher education. Appointing a professor to receive corruption charges is at least we could do but no all we can do. It will

have the same result as the telephone hot lines for reporting corruption – no calls for a period of a year.

We don't have the real resources nor willingness for real implementation. Furthermore, in the new National Strategy there is no section for future plans for fighting against corruption. Then we ask ourselves: what should we do? We have to work on building capacities especially in those areas where corruption often occurs. There is lack of communication between relevant bodies, so we firstly have to manage this problem. Second, there is poor level of awareness of academic integrity. Therefore, we have to work on strengthening the academic integrity especially with the academic staff and the university administration. There is social apathy about corruption, lack of education initiatives, and lack of awareness that corruption is danger for society, unwillingness and fear of reporting cases of corruption, bribing is considered socially acceptable which at the end results with unacceptable behavior in academic community. For the purpose of improving the capacity of the Universities to create a framework for fight against corruption we have to find more practical solutions which will be applied to all Universities to prevent corruption. For instance, there should be mandatory workshops for first year students on unacceptable and acceptable codes of behaviors in academic community. Training courses for the employees (both academia and administrations) on unacceptable and acceptable codes of behaviors in academic community. This kind of solution is implemented in Croatia.

CONCLUSION

We are of the opinion that we have solid legislation background, but our weak spot lies in their implementation and the real possibility of the implementation of the provisions of the relevant laws. We have to work on building capacities especially in those areas where corruption often occurs. Also there is a general attitude that corruption in higher education is not detected, prosecuted or convicted in a proper manner, which brings us to more devastating result: no one reports it because no one beliefs in the judicial system and in rightful convictions. (Fakulteti.mk, 2018, August, 30th) From what we have seen there cannot be a common solution for a common problem. Every nation must find its one way to fight against corruption. Some nations may seem that repression is more appropriate, some may think that prevention is more

important than repression, others may find a different cure for this social illness, but it is more than sure that the fight against corruption must be constant, continues and persistent in order to succeed. If a higher education institution has a reputation for a corrupt institution, then it may happen that their graduate students are not desirable on the labor market and have serious difficulties in finding a job. Additionally, such institutions make it difficult for those students who have received their grades in an honest way. (Heyneman, Anderson, Nuraliyeva: 2008)

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1.01 Original Scientific Article

Opportunities for Protection in the Procedure or outside of the Procedure of the Whistleblowers or Witnesses, related to Corruption in Higher Education in the Republic of Macedonia and compared to other Countries

Nikola TUNTEVSKI³

ABSTRACT

To enroll at one of the universities in the Republic of Macedonia today is an achievable goal, having in mind the large number of state and private higher education institutions. It is realistic to expect that precisely such "benefits" in higher education are in reverse proportion to the level of corruption in it and that it is decreasing. Unfortunately, corruption not only continues to exist in this important segment of society, but has also adapted to the new circumstances, changing only its emergent forms.

Despite the numerous modern methods for its prevention, detection and proofing, persons directly affected or witnessed by corruption in

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the higher education sector are still central, and who in the further procedure appear as whistleblowers or witnesses. Their specific role and significance for the outcome of the proof, inevitably require their proper protection, not only during the procedure, but even more so after its completion. That is exactly the intention of this scientific paper - to recognize and recommend the best opportunities and instruments that will enable these individuals to fulfill their role in the procedure, with simultaneous maximum protection and realization of their guaranteed rights. In that direction, several cases from the judicial practice in a few countries, will be analyzed as a useful experiences.

Keywords: *higher education, corruption, whistleblowers, witnesses, protection*

DEFENCE OF THE SPEECH AGAINST SILENCE - INTRODUCTORY NOTES

"... The only thing necessary for the triumph of evil is for good men to do nothing
...Nobody made a greater mistake than he who did nothing because he could do only a little
... When bad people act, the good must join together-otherwise they will fail, one by one"
Edmund Burke (Ritchie, 1990)

This quotation reflects the paradox that our passivity and ignorant attitude towards the deviant phenomena in society have the same, and perhaps more, contribution to their expansion, than the activities of their immediate creators. Every society needs righteous, principled and courageous people who will reveal such deviations and will demand their elimination. We can call them whistleblowers or "informers", reporters or "snitches", witnesses or simply - ordinary citizens who only perform their civic and ethical duties to combat against injustice and create a more justified society. Are they heroes who reveal inadequate, illegal and corrupt behavior, or they are traitors, because they often reveal confidential information and practices? If they are seen as traitors,

these persons may become victims of retribution and bad treatment. If they are seen as heroes, they can promote high standards in public life.

Therefore, much more important than the terminology is - how to protect these people in order to install a sense of security, not only in them, but also among the others in the society, which will encourage them to react more to any unlawfulness, and thus create a social culture of resistance to all negative phenomena.

It is the strongest rampart against corruption, which today is one of the most widespread metastases in each country. Simply said, it is motivated by some material benefit or gain and means abuse of trusted (from citizens) power for private gain. Corruption slows down economic development, undermines democratic institutions and endangers social and political stability. It has no immunity to any sphere of social life, nor to higher education. It advances in secrecy and therefore requires a more efficient regulatory response. An essential component of such an answer is information from people who know what is happening. Its penetrating nature requires insiders, that is whistleblowers who have access to information and who decide to cooperate with the government. Whenever there is a risk that the activities of an organization (public or private) are wrong, whistleblowers are people who work at the organization and who first recognized that.

Every person, at least once in his life, faced some form of corruption or illegal activities, but he did not have the courage to bring it to justice. The fear of revenge, the social culture of ignoring the deviant occurrences or distrust in the institutions, faces us with the choice between one's own security and one on the other, - the need for justice. Each one of us would ask the questions - "Why to report?", "Can I change something as an individual?" "Will someone support me and protect me, or am I alone?", "What will be with me, my career, and my life and with the feature of my family?" After all these questions, most of us would choose the first option that brings us to the famous picture of "The Three Indian Monkeys" - I do not see, I do not listen, I'm not talking. If the individual does not feel protected from the institutions, one cannot be expected to put himself in an unnecessary risk, which can result in fundamental changes throughout his life, which is why he is more likely not to report corruption. This is also shown by the numerous surveys, according to which the risk of corruption is significantly higher in society where people, who point or testify about corruption, are not adequately

supported or protected. The indicted and witnesses face the possibility of a criminal prosecution for giving confidential information or defamation, but even more - with the danger of secondary victimization expressed through destructive retaliation, ostracism, misunderstanding or isolation from the society, discrimination in the workplace, and even to layoffs from work and questioning their existence, and thus to the livelihoods of their families. That is why they begin to feel isolated, alienated and uncertain and lose their faith in the institutions of the state, which affects the intentions for further expansion of crime in the society. Correlatively, if such persons put themselves in a potential danger and accept the many social and economic consequences that can follow, then the community, seeking co-operation, is obliged to endeavor to support and protect them. This is not just a question of ethical behavior, but calls into question the maintenance of the integrity and effectiveness of the whole system of justice on which the maintenance of the overall collective and individual security is based.

Being aware of all of this, the major international actors (the United Nations, the European Union or the G20 countries) have adopted a number of anti-corruption measures (for example, the UN Conventions Against Transnational Organized Crime and Anti-Corruption, or Recommendations of the G20), urging all countries to incorporate in their legislation appropriate legal solutions and mechanisms to protect all those persons who, voluntarily and on a reasonable basis, report to the competent authorities acts of corruption and other illegalities. It was accepted by most countries, including from the Republic of Macedonia. It legitimizes and structures the mechanisms, according to which it is encouraged that every public and private sector employee, disclose all forms of corruption and, accordingly, acquire the status of a whistleblower or witness, which guarantees legal protection against various forms of retaliation. If properly implemented, these laws can become effective tools to support anti-corruption initiatives.

Reporting irregularities is not just a legal obligation for citizens, but it is a continuation of the rights to freedom of conscience and expression and the result of a human need to care for the welfare of other people. On the other hand, the protection of the whistleblowers is fundamental to the functioning of each justified community. These are some of the preconditions for the predominance of public over private interests and for the promotion of a social culture of justice. We must fight against corruption, as it poses a threat to the stabilization of democratic

institutions and the rule of law. This is hardly feasible in countries where, instead of law, the principles of dying, fear and retaliation rule. An effective fight against corruption requires the active participation of all sectors of the public sphere, civil society and citizens themselves, since laws can be applied only in a democracy, which supports transparency, accountability and accountability.

FROM THE WHISTLEBLOWER TO WITNESS – DETERMINATION OF THE TERMS

The protection of the whistleblowers could not be identified with the protection of witnesses, because there are substantial differences between the subjects, to whom it is directed.

In most countries, *the term "whistleblower"*⁴ describing a person who is / was either employed or otherwise has access to information in an organization and which in good faith reveals, informs or points out to subjects within his/her organization or to entities and institutions outside the organization, for the behavior and activities of individuals or the organization itself, reasonably believing that they have abused their activity to the detriment of the public interest and violated legal provisions and who are thus exposed to opaque ness of reprisals. (Grey A. John, 2004. See either Bok, S, 1980 & The American Heritage® Dictionary) According to certain considerations, the term must also be further specified with the term "person related to whistling" as a person "... who helps the whistleblower in the report and any other person likely to suffer from retaliation because of his affiliation with the whistleblower." (Whistle-blowing in the Montenegrin Police, 2014) In addition to these terms, the term denouncer can also be found in everyday speech, but in legislative terminology it is abandoned because of its negative connotation. (Whistleblower International Translations", 2014)⁵ However, they are a useful tool in the combat against corruption that happens in secret and can be disproved only by individuals who

⁴ It is assumed that the word itself is derived from the English police officer "Bobi", who blows in the whistle, whenever he notices that someone in front of him violates the regulations and public order

⁵ For example, a Russian term for a newsletter is " осведомител ", which means "rat" or "snitch". The neutral term now used in Russia is "a person reporting a violation of the law".

participate in corrupt activities or those who collaborated with them, because they are in the best position to report on it. (G 20, 2011)

Our legislation uses the term "укажувач" as a term that is considered to evade the negative labeling of these people as snitches and at the same time abandon the comical meaning of the term "whistleblower". But our Law on Protection of Whistleblowers does not directly define the whistleblower itself, but rather through its activities, and says that "the whistleblower ... is a person ... who shall make a protected disclosure in good faith in accordance with this Law" (Law on Protection of Whistleblowers, 2015, Article 2 paragraph 2) Accordingly, in the previous paragraph (1) of Article 2 of the same law, the protected reporting or disclosure is defined as "... any disclosure under which reasonable suspicion or knowledge is reported about punishable activity already performed, about punishable activity being performed or about punishable activity for which there is a probability that will be performed or about any other unlawful or unallowed activity that violates or threatens the public interest". (Ibid. Article 2 paragraph 1)

The term "*reporting*" does not fully reflect the essence of the action of the indictee. According to Glazeer and Glazeer, the difference between the whistleblower and the reporter of the misdeeds is that the whistleblower acts to prevent damage to others, not on oneself, while the reporter usually is a victim. He/she always report to the competent state authorities (the police or the public prosecutor's office), in contrast to the whistleblower who has the opportunity to so-called internal or external reporting. (Glazer Myron. P and Penina Glazer, 1989) In addition, whistleblowers are in some kind of connection (mostly employed) with the organization itself and report for illegal activities in it. While the reporter do not have to be in a relationship with the institution they are reporting.

For these reasons, in 2018, amendments were made to the Law on Protection of Whistleblowers, which in Article 2 paragraph (1) after the word report, the word "*disclosure*" was added. (Law on Amendments and Supplements to the Law on Protection of Whistleblowers, 2018, Article 2, paragraph 1) By doing so, the word giving is more complete, since it refers to the disclosure of illegal activities. In that direction, a distinction must be made between the whistleblower and the police informant, since most whistlerblowers are those who do not reveal for some benefit, but for benefit for the wider community. Among these, some

anti-corruption laws provide a reward for those who uncover misconduct, mainly for fraud and corruption. This possibility is not envisaged in our country, except for compensation of damages (Law on Protection of Whistleblowers, 2015, Article 13) for the whistleblowers or persons close to him, in a court procedure and under the conditions stipulated by law. In addition, the identity of the informant is completely secret and known only by the police officer who has a connection and cannot be exposed; whereas in the case of whistleblower it is confidentiality, which rights can be restricted by a court (Ibid. Article 3 paragraph 4).

In most legislations and according to the term whistleblower, its activity is called *whistling or whistleblowing*. This is explained as a voluntary act of disclosure of concern by persons who have privileged access to data or information in an organization and who believe that the public interest outweighs the interest of the organization, and therefore publish them for the practices of individuals or the organization itself for whom there is reasonable suspicion that they are dangerous, illegal, immoral or illegitimate, and to report it to the organization itself or to external entities that have the potential to verify information and take corrective action in the direction of reducing or eliminating such practices. The reason for this must not be private retaliation or self-interest of the whistleblower, but to protect the welfare of more people. (Gwy Dehn, 2000) Interesting is the definition, according to which disclosure in its most general form is a way of turning the public's attention to wrongdoings in order to avoid further damage. (Camerer, C. 2001) This definition may be the closest to what could be called whistleblowing. A similar definition is applied in national disclosure laws. For example, the Public Interests Disclosure Act (PIDA) of United Kingdom defines the whistleblowing as "any publication of information which, after the reasonable assurance of the publisher, tends to show one or more of the following ..." (the provision continues with an indication of acts, including in connection with the commission of criminal offenses). (PIDA UK 1998)

A potential *lack of these definitions* is that they focus only on the act of discovery, rather than seeing the whistleblowing as a process to be followed before, during, and after the announcement. That is why science today understands the whistleblowing in a wider context, that is, as an act of free speech that promotes responsibility by revealing information about improper behavior, protecting the whistleblower

from sanctions. With this, the emphasis is also transferred to the act of protecting. (Banisar David, 2013)

From the stated definition of the two basic terms, we could distinguish *several features*:

- The whistleblower reveals inadequate actions that are most often related to his job or other activities

- It is a person with privileged access to data or information and includes people who are beyond the traditional relationship between employees and employers, such as consultants, contractors, trainees, volunteers, students, temporary workers and former employees

- The information it brings is not public, but secret, and it must have great value for the public interest and prevent further damage

- The whistleblower discloses abuses that endanger the public, and less of his private interest, by which his actions are aimed at preventing harm to others, and not just oneself

- The commitment to loyalty to the organization and to the obligation of keeping a secret must be balanced with the value of the public interest. And the European Court of Human Rights has recently stated in a recent case that, the public interest in disclosing corruption goes beyond the interests of the protection of the reputation of any organization. (European Court of Human Rights, 2011)

- He acts on a voluntary basis, with good will and on a reasonable basis, that is, he should report on reasonable grounds and possess evidence that would convince any reasonable person. (UNSA, 2005). The Council of Europe Convention on Civil Law and Corruption at article 9, defines whistleblowers as "Employees having a reasonable basis to suspect corruption and who voluntarily report suspicion to responsible persons or authorities." (Civil Law Convention on Corruption 1999) The justification that the basis is reasonable may depend on the seriousness of the question and on whether the alternative channels do not exist, do not function or can not be expected to function

- Whistleblowing can be done through designated channels and / or designated persons, to an internal entity (entity within the

organization), to external entities (regulatory bodies, ombudsman, anti-corruption entities, law enforcement agencies) or publicly (via the media)

- Whistleblowing must be on – time to assess risk, threat and behavior, so that it can be reduced, stopped or removed in a timely manner
- Depending on the information provided, the subject to which they report, the nature of the problem, the referer usually wants to provide information on the condition of anonymity and confidentiality
- The whistleblower expects an effect of his information, that is, to stop the activity that causes damage and loss to the public and society
- In most cases, whistleblowers face the risk of retaliation and need adequate protection

As mentioned above, it is forbidden to detect or enable detection of the identity of a referrer without his consent. (Law on Protection of Whistleblowers, 2015, Article 7) This *inter alia* protects the whistleblower from taking part in judicial and other proceedings. However, if there are exceptional reasons and is necessary for conducting the procedure before a competent body, the right to confidentiality of the whistleblower may be limited by a court decision. This means that the whistleblowers can participate as a witness in the procedure. It is highly probable that these provisions in our Law for the Protection of Whistleblowers would correct any potential whistleblower in advance of the dilemma whether to disclose the irregularities that he found out because he would expose himself (even his family or other persons related to the occurrence) at an increased risk with a potential danger of retaliation, if it appears as a witness in the further proceedings. By doing so, he would lose the previous status of a whistleblower and should receive a status of witness, with all the consequences that it brings.

According to the Committee of Ministers of the Council of Europe, a *witness* is any person who possesses information relevant to the criminal proceedings for which he gives and / or can give a testimony (regardless of his / her status and the direct or indirect, oral or written form of testimony according to the national law. (Council of Europe's Committee

of Ministers, 2008) According to the United Nations, a person is a witness regardless of his / her legal status (informant, witness, court clerk, secret agent or other) who: 1) has made or agrees to give report or evidence relating to the performance of a serious offense; 2) because of his / her relationship with criminals, may seek protection and 3) for any other reason, may seek assistance or protection under the law. (UNODC, 2008) The UNODC's practical guide recommends that protection be extended to collaborators and assist in investigations, until it is obvious that they should be called to testify also to persons who provide relevant information that will not be sought / used in court due to security concerns. This formulation can also be used to protect the whistleblowers in further procedures.

According to our Law of Criminal Procedure, a witness is any person who is likely to be able to report on the crime and perpetrator and other important circumstances. (Law on Criminal Procedure, 2010, Article 212 paragraph 1) A similar provision exists in the Law on Witness Protection, where it is said that "witness" is any person who, according to the Law on Criminal Procedure, has the status of a witness and possesses information on the commission of the crime, his perpetrator and other important circumstances, that is data and information of significance for the criminal procedure that is necessary and decisive for the proving of the crime with which the life, health, freedom, physical integrity or property of a larger scope of the witness are exposed to danger. (Law on Witness Protection, 2005, Article 2 paragraph 1) During the testimony, the witness is obliged to answer the questions asked, to speak the truth, and to keep nothing silent. Exceptionally, the witness is not obliged to answer certain questions if it is likely that he would expose himself or his relative to disgrace, substantial material damage or criminal prosecution.

Although both the whistleblowers and the witness communicate facts about what they have noticed and do so in public, and not for the sake of their own interest, there are substantial differences between them:

- The whistleblower voluntarily discloses the crimes he / she has learned, while the witness is obliged to state the facts on which he was an eye-witness or learned indirectly
- The facts raised by the witness do not necessarily relate to the organization in which he works or from which he uses certain services

- The witness presents only what he has noticed or heard, without the right to comment on the events; while the whistleblower can also express his opinion on the problem that he disclose
- Unlike the whistleblower who has three options for reporting (within the organization, outside institutions and publicly in front of the media), the witness has only one single option - that is testimony before outside institutions (public prosecution, courts, etc.)
- The whistleblower can disclose what is happening now or will happen in the future, and is at the expense of the public interest; while the witness testifies to what happened in the past.

In addition to the above differences, what may be the most "uniting" between the whistleblower and the witness is their concern for what will happen to them, their families or their close ones after they have fulfilled their civil and legal obligations. The potential danger of retaliation for their activities is a real threat, for the care of their effective protection must not be left solely to them, but rather to the institutions that have sought their "services".

SUCCESSFUL PROTECTION OF THE WHISTLEBLOWERS AND THE WITNESSES – THE BASE FOR SUCCESSFUL COMBAT AGAINST CORRUPTION

"You cannot bite the hand that feeds you and expect to stay in the game."

India people proverb (Ravishankar Lilanthi, 2003)

In conditions when unemployment is high, as in our country, every person experiences employment as one of the greatest benefits in life. For new employees, the employer is like a "virtue" for whom they would do anything, or even dare to enter into illegal activities. Is it because of gratitude, fear of losing a job or inexperience - it is less important. More importantly, these people with employment are sworn by the lifelong fidelity of the organization and the employers and the silence (omerta) of everything they have seen and heard, and who is aware of it as a crime. In this respect, the culture and the tradition of a particular social

environment have a great influence, which makes the whistleblowers perceived in a negative context, that is, as traitors. Therefore, those who dare to report corruption face an avalanche of negative reactions from the society and in some way, how to enter the process of suicide of their personality and dignity. If we add to this the relations of clientelism that exist between the holders of power and the institutions of the system, then the ultimate effect of their reporting or testimony is missing. The lack of confidence in the institutions, as well as the lack of legal regulations for the protection of pointers and witnesses, was an additional incentive for penetration of corruption in all spheres of social life, as well as in higher education.

Recognizing the fact that the risk of corruption is significantly higher in societies where reporting of irregularities is not protected, protection of whistleblowers and witnesses in criminal prosecution proceedings has become a priority worldwide. In addition, the social climate has changed to the whistleblowers. Encouraged by increased public support, efforts by governments and NGOs to fight corruption and transparency in public administration have opened up opportunities to improve protection for whistleblowers. The public and the media began to recognize their "usable" value and began to approach them with less skepticism.

International laws for the protection of whistleblowers and witnesses

In the last twenty years, all major international factors have endeavored to create a legal framework that will oblige countries to provide protection to reporters of corruption to the authorities, voluntarily and for reasonable reasons. Of course, one of the most important international documents governing the protection of whistleblowers is the *United Nations Convention against Corruption* (UNCAC). According to Article 33, "Each State Party shall consider the possibility of introducing in its domestic legal system appropriate measures to provide protection against any unjustified conduct for any person who, in good faith and with reasonable reasons, informs the competent authorities of all the facts in relation to offenses established in accordance with this Convention ". This article aims to cover persons who have information that is not sufficiently detailed to present evidence in the legal sense of the word. (UNCAC, 2003, art.33) By contrast, Article 32 of the same Convention states that states "shall take

appropriate measures ... to ensure effective protection against potential retaliation or intimidation of witnesses and experts who testify for offenses established in accordance with this Convention and, as which is appropriate, for their relatives and other close persons" (Ibid. Art. 32) This gives the impression that the protection of whistleblowers is left to the disposition of each state, to decide for itself whether it has the possibility to provide such protection, unlike witnesses and other listed persons, for which the states undertake to provide such protection. Additionally, whistleblowers are not subject to protection from retaliation or intimidation, unless they are "witnesses or victims" of the offense and testify in the further proceedings. UNCAC provides for a wide range of possible measures of protection, including: 1. physical security procedures, such as relocation and non-disclosure of information about the identity and place of residence of the witness; 2. Evidence rules to ensure the safety of witnesses during testimony in the courtroom; 3. participation must be voluntary; 4. the protection of witnesses should not be granted as a reward or incentive to testify; 5. there should be clear criteria for ensuring witness protection; 6. participation should not make the witness better than he was before joining the program; 7. all legal obligations, including the protection of third-party rights, should be respected; 8. entry into the witness protection program should be the last resort, 9. the obligations of witnesses upon admission to the program should be indicated in a Memorandum; 10. There should be procedures in case of violation of the Memorandum and 11. Procedures for disclosing information and penalties for unauthorized disclosure of information. (UNODC, 2008)

In 2003, the *Council of Europe* adopted the Convention on Civil Rights against Corruption, which states in Article 9 that each party in its internal law will provide adequate protection against any unjustified sanction for employees who have a reasonable basis to suspect corruption and who good will report suspicion to responsible persons or authorities. The Council of Europe also announced that all Member States should review their laws regarding the protection of anyone who uses goodwill in existing good channels to report any form of retaliation (dismissal, harassment or penal and discriminatory treatment). On April 30, 2014, the *Committee of Ministers of the Council of Europe* adopted *Recommendation CM / Rec (2014) 7*, which recommends that Member States create an institutional and judicial framework for the protection of individuals who report or disclose information on threats or damage

to the public interest. (Council of Europe, European Committee on Legal Co-operation) (Council of Europe)

The G-20 leaders at their meeting in 2010 identified the protection of whistleblowers as a priority in their global agenda. In point 7 of the Anti-Corruption Action Plan, they demand on countries to take protection against retaliatory actions, to those who voluntarily report the acts of corruption. (G20, 2011)

Transparency International sets out several main principles of protection, including: 1. The only legal framework to ensure the protection of informants covering the public, private and non-profit sectors and includes a wide range of offenses; 2. providing protection against reprisals for reporting persons and for members of their families by awarding them - access to court procedures; 3. protected internal and external reporting channels for reporters and, in extreme cases, the protection of disclosures made in the media; and 4. the effective enforcement of the laws protecting whistleblowers by an independent body overseeing the implementation and receiving and investigating complaints. (Transparency International, 2010)

The Recommendation on guidance for dealing with conflict of interest in the public service, adopted by the *OECD* in 2003, stipulates that States should take steps to ensure that those who report violations in accordance with the said rules are protected from retaliation and that the complaint mechanisms themselves do not are being misused. (OECD, 2003)

Comparative overview of the laws on protection of whistleblowers and witnesses in different countries, with particular reference to the Republic of Macedonia

According to the *OECD*, in countries that have passed laws to protect whistleblowers, in the period from 2000 to 2009, their protection has increased from 44 % to 66 %.(*OECD*, 2009). But effective protection of whistleblowers and witnesses can exist only in a democratic society that values responsibility and transparency. In other words, the rule of law, which includes an independent legal system and an independent judiciary, is the basic prerequisite for the functioning of the laws to protect whistleblowers and witnesses. Also, it is rare for effective and simple transplanting of successful legal systems from one cultural

setting to another or from developed countries to developing countries. Therefore when adopting the mentioned laws, it is crucial to take into account the cultural and institutional climate of the respective countries. Otherwise, the effectiveness of legislation to protect whistleblowers and witnesses will be seriously undermined. Therefore, regardless of the international interest, there is no single ideal model of protection that can be easily developed or applied for most countries.

Historically, the first law that anticipated the protection of the whistleblowers was the False Claims Act, brought to the United States at the time of Lincoln in 1863, which allows people who are not affiliated with the government to take action against fraud by the government. The act of taking such actions is informally called "whistleblowing". It was adopted as a reaction to corruption in the public procurement system during the American Civil War. (Vaughn G Robert, 2012) In 2012, the Law on the Protection of Whistleblowers was passed, which is a federal law and protects federal whistleblowers working for the government and reporting abuses of the relevant services. (Whistleblower Protection Enhancement Act, 2012) The 2002 Sarbanes-Oxley Act, which protects employees who report alleged violations of laws, is also significant. Any whistleblower who believes that he is discriminated against or retaliated can appeal to the Department of Labor (DOL) or to the Occupational Safety and Health Agency (OSHA) in the legal period. If OSHA does not make a final decision within the legally stipulated period, the employee may file a lawsuit with a federal court. The Dodd-Frank law excludes protection against retaliation for internal reporting, or an employee who reports potential violations of the securities law, is entitled to protection. Under all these laws, apart from Dodd-Frank the act that creates the right to a private lawsuit to the federal district court, complaints of discrimination or retaliation against whistleblower are submitted to OSHA. (DLA Piper's Employment Group, 2013) It entitles every employee who is dismissed, degraded, suspended, threatened, disturbed or otherwise discriminated against in the employer's employment conditions for the purpose of investigation, initiation, testimony or assistance in a lawsuit filed, has the right to all relieves necessary for work safety.

And the protection of witnesses first appeared in the *United States* in the 1970s as a legal procedure in the fight against criminal organizations. Until that time, the unwritten "code of silence" among members of the Mafia - known as omerta - kept the indisputable rule, threatening the

death of anyone who violated the rule and cooperated with the police. Important witnesses could not be persuaded to testify about the state, and key witnesses were lost to the joint efforts of criminal bosses aimed at prosecuting. These experiences prompted the US Department of Justice to introduce a witness protection program. (Montanino Fred, 1987) Under the authority of the public prosecutor, the Witness Security Program (WITSEC) ensures the physical safety of risky witnesses, mainly through their relocation to a new, unknown place of residence, under a new name and new identity information.

In addition to the US, in the *United Kingdom* whistleblowers protection legislation is seen as an example for other countries. The most important is the Public Interest Disclosure Act (PIDA), adopted in 1999 and undertaken in all jurisdictions in the United Kingdom. Although PIDA applies to all employees in the public and private sectors, police officers and participants, it does not include self-employed persons or members of the armed forces or intelligence agencies. Crucially for the work of PIDA is that the publication of information is not a qualified disclosure (and therefore not protected by the act) if the person who published it committed an offense by doing it. PIDA more prefers confidential, rather than anonymous reporting and anticipates compensation. (PIDA, 1998, Part IV.A., Section 43B) Disclosure to the employer or another person will be protected without exception. External disclosures are protected in more limited circumstances, that is, only if the employee considers that the information is substantially true and relates to an issue within the responsibility of that person. The release of an employee with protected disclosure is automatically unfair. (Vickers Lucy, 2000) Today, many years since the introduction of PIDA, the UK whistleblowers are seen more positively by citizens and the media. (Public Concern at Work, 2013) PIDA has been praised as one of the most comprehensive laws for the protection of whistleblowers in the world and is often referred to as a "model" law, due to its comprehensive coverage and degree of detection.

Most *Balkan countries*, including the Republic of Macedonia, are still in the initial phase of creating mechanisms for protecting whistleblowers, and lacking appropriate practice.

Despite the growing public and political interest in this issue in recent years, *Bulgaria* has no specific law to protect the whistleblowers. The only law that provides protection is the Code of Administrative

Procedure of 2006, but its mechanisms are limited. It allows persons and organizations to report abuse of power, corruption, mismanagement of public property and other illegal or inappropriate acts affecting state or public interests. The law, however, only applies to violations of the public sector, while private sector employees are not protected, with the exception of a generic provision of labor laws, which gives workers the right to compensation if treated unfairly. Many government departments have established certain internal mechanisms. In addition, in the eyes of the public, whistleblowers are considered traitors and snitches, due to the historical circumstances of the totalitarian regime. Public and private sector employees are afraid of dismissal or prosecution for defamation if they report, and many feel that their reports will not affect the situation. Therefore, in recent years, anonymous reporting has increased. (Kierans Lauren, 2013)

Although *Greece* has been hit in recent years with numerous political and other corruption-related scandals, nepotism and fraud has limited mechanisms to receive reports of misconduct and protect whistleblowers from retaliation. Generally speaking, all Greek citizens are legally bound to inform authorities if they are witnesses of a crime, but public awareness and support for whistleblowers are still weak. In April 2014, Greece passed the Law-No. 4254/2014. Article 45 B CPP, the purpose of which is the protection of persons reporting corruption, criminal prosecution of false information, defamation and breach of confidentiality and personal data, if the information is provided in accordance with the law. In addition, the law prohibits various forms of retaliation against public officials reporting corruption, including dismissal, disciplinary proceedings, discrimination and retention of promotions. The measure also provides measures to protect witnesses, if necessary, and regulate disclosure in the financial sector. The state of these persons guarantees a police officer as a guardian, take a statement before the judge, protect their identity, change personal data in the identity card, or transfer a civil servant-whistleblower to another service indefinitely. But this applies only to a person who will receive the status of a witness of public interest, while the whistleblower cannot be sure that he will be declared a public interest witness, given that the criterion of public interest is very vague and subjective. But even if this status is approved, the whistleblower is not completely protected from such measures, because their protection refers to a criminal prosecution, not to requests for civil damages due, for example, to alleged defamation.

Similarly, there is no special protection if persons refuse to participate in unlawful acts without disclosing information about this to the competent authorities, nor to persons who have anonymously disclosed the information and which were subsequently identified and prosecuted, or for persons for whom the employers they mistakenly believe they are whistleblowers and as a result they harass them. Therefore, some whistleblowers, as well as investigative journalists who have not received this status are subject to retaliation, that is, they are attacked, arrested or killed. These cases caused an initial public outrage, but public support was not enough to improve the protection of whistleblowers. However, due to increased public demands for greater transparency within the government, political leaders have become aware of the positive impacts of corruption disclosures. (Blueprint for Free Speech, 2018; Courakis Nestor, 2015)

Serbia in 2014 has become one of the few countries in Europe that has adopted a comprehensive law on reporting information that seeks to protect government and corporate employees reporting abuses of vengeance. The Law on Protection of Whistleblowers (Zakon o zaštiti uzbunjivača) provides legal protection against all kinds of retaliation against employees in government and corporations that report a wide range of illegal acts, and employers employing more than ten employees are obliged to prescribe the procedure for internal reporting. The law prohibits any act of preventing information, deliberately misrepresentation or claiming benefits in return for making a report. Organizations may be penalized for not creating procedures for reporting or protecting the whistleblowers or for not acting on information within a specified time period. The law also applies to persons who are related to reporting persons and for which the harmful act has been committed. Even people who were mistakenly believed to be whistleblowers are also protected. The employer must not act or not to act in such a way as to place the whistleblower in a disadvantage with the reporting, especially if the unfavorable situation is related to employment, trainee status or volunteer, job out of employment, education, training or professional development, promotion, evaluation, acquisition or loss of a profession, disciplinary measures and penalties, working conditions, termination of employment, salary and other benefits arising from employment, participation in profit for employment, payment of compensation and severance pay, accommodation or move to another job position, does not take measures

for protection against harassment by third parties, reference to compulsory medical examination or reference tests for assessment of work capacity. In case of damage caused by the statement, the applicant is entitled to compensation in accordance with the Law on Contract and Intelligence. The whistleblower against whom a harmful act has been taken in connection with the information protection statement is entitled to protection before a court that can be reached by filing a lawsuit. (Zakon o zaštiti uzbunjivača, 2014) In July 2011, the Agency for the Prevention of Corruption (APC) published a "Rulebook on protecting informants", which lists the reporting policies for public officials. For informants who meet certain criteria, ASA will inform the organization where they are employed that any negative effect from a working relationship that is undertaken during a two-year period will be considered retaliation. (Anti-Corruption Agency, 2013) Getting whistleblower status may be a disadvantage in Serbia because people are "labeled and victimized". The protection provided by the APC does not always protect whistleblowers from the cancellation, therefore they must contact the courts for compensation. Vengeance, however, is still commonplace. (Stephenson Paul, 2012)

In January 2014, *Bosnia and Herzegovina* adopted the Law on Protection of Whistleblowers, which protects civil servants who give official secrets for the purpose of detecting corruption. It provides protection against a wide range of reprisals - including the relocation of an employee for inadequate workplaces. Many types of disclosures are protected, including those made for co-operation in investigative proceedings. (Centre for Responsible Democracy–Luna, 2014 March) The law provides for the possibility of preventive protection of employees, so that they get the status of a whistleblowers, before being exposed to retaliation. For this they can apply to the Anti-Corruption and coordination of combat against Corruption Agency (APIC), regardless of whether they have suffered retaliation or suspect that this could happen. Upon the APIC employee's application, the Ministry of Justice is conducting an investigation to determine whether the request for the protection of whistleblowers is legitimate. The status prevents the state institution from retaliating against a worker reporting corruption under the law. Employees who disclose official secrecy during the reporting of corruption are protected from material, criminal or disciplinary liability. However, the status does not protect employees from disciplinary and other measures that are not related to their act of reporting. The status

may continue indefinitely, but may be revoked if it is determined that the employee has deliberately filed a false report.(APIC, 2014,) In addition, Bosnia and Herzegovina has also adopted a Law on Witness Protection under threat and vulnerable witnesses, as well as a Witness Protection Program. And the Bosnian public generally looks at the negative light of the people who report. In addition, many citizens do not trust the police and other authorities. They fear that reporting crimes will cause problems for themselves, and that little or nothing will arise from their disclosures. (Whistleblower Protection in the Central and Eastern Europe Region, 2015)

Kosovo was among the first that adopt the Law on Protection of Informants as early as 2011, aimed at protecting against retaliation in the workplace and discrimination against persons reporting illegal activities that occur in the public or private sector. The law requires public institutions and private enterprises to adopt their own acts for the protection of the "integrity, rights and interests" of informants. But in order to receive protection, they must believe that the information is true. Consciously false reports are not protected. In serious criminal cases, the applicant and family members may receive witness protection. Informers who are dismissed or otherwise disciplined can be returned and reimbursed, but they must themselves prove that they are disciplined due to reporting abuses. The employer has no obligation to prove that disciplinary measures are not related to informing. (Law No. 04/L-043 on Protection of Informants, 2011) A positive example from Kosovo is the fact that in November 2012, the American University in Pristina formed the first Ombudsman office and appointed two representatives. All individuals and their identity reporting to the Ombudsman office are protected.

The Republic of Macedonia adopted the Law on Protection of Whistleblowers relatively late - even in 2015, although previously there were provisions for this in other laws (Law on Prevention of Corruption, Law on Public Sector Employees and Law on Public Internal Financial Control). The main goal of this law is precisely the protection of the whistleblowers in the public and private sector. (Law on Protection of Whistleblowers, 2015, Article 1) The protected application is defined as "providing protection under the law" and "guaranteeing confidentiality", which can be limited only by a court decision. (Ibid. Art.2 par. (1) & Art.3 par. (3) & (4)).

The law distinguishes between three types of protected reporting:

Protected internal reporting, which the attorney performs in the institution, that is, the legal entity, where there is a suspicion of a punishable, unlawful or unacceptable act that violates or threatens the public interest. It shall be carried out orally on a record or in writing to a person authorized by the manager, and if there is no such person, registration shall be performed to the manager of the institution or the legal entity. They are obliged to protect personal data that can reveal the identity of the indictee and inform him about the measures taken regarding the application without delay, and at the latest within 15 days from the day of receiving the application

Protected external reporting to the Ministry of Interior, the competent public prosecutor's office, the State Commission for Prevention of Corruption, the Ombudsman of the Republic of Macedonia or other competent institutions, that is, legal entities that are obliged to act upon the application and to protect personal data that can reveal the identifier of an announcer that reports anonymously or confidentially, as well as to inform the indictee about the measures taken and

Protected public reporting is done by making publicly available information (to the media). But if it does so contrary to the provisions of the law, the indictee has no right to protection. (ibid. Art. 4-6)

One of the basic types of protection in the law is the protection of the data and the identity of the whistleblowers, which prohibits the detection or enabling detection of the identity of a whistleblower without his consent, unless required by a court decision when necessary to conduct a procedure before competent authority. Therefore, all persons who are in any relationship with the indictee or will find out about him, are obliged to protect his data, unless he agrees. The authorized person for receiving reports from whistleblowers is obliged to notify the indictee that his identity can be detected by a competent authority during the receipt of information, as well as to inform him about the measures for protection in the criminal procedure. (Ibid. Art. 7)

Other forms of protection for the contact person and the person close to him are protection against any kind of violation of the right, in determining responsibility, sanction, termination of employment,

suspension of the position, deployment of another job that is less favorable, discrimination or harmful action or the danger of occurrence of harmful activities due to the performed protected internal and external reporting or protected public reporting. If such protection is not provided, the indictee hereby reports to the State Commission for Prevention of Corruption, the Ombudsman of the Republic of Macedonia, the Inspection Council, the Ministry of Interior and the Public Prosecutor's Office of the Republic of Macedonia, who upon the application act without delay, in accordance with their competences. This protection applies even to persons for whom the suspect can be suspected as indicative. Upon receipt of the application, the institutions shall request notice without delay of the existence of any kind of violation of the right of the whistleblower from the legal entity where the application was made. If it is established that the legal entity where the reporting was made, violated the right of the whistleblower, a member of his family or a close person, the institutions address him without delay to the competent institutions and authorities with a written request for immediate undertaking measures to protect the whistleblower by interrupting the actions, i.e. removing the omissions that violate the rights of the whistleblower and inform him thereof. If the violation of the right of the whistleblower continues, a member of his family or a close person, the institutions, without delay, initiate an initiative for initiating a criminal prosecution procedure, that is, an initiative for initiating a procedure before the competent bodies for dismissal, deploying, replacing or applying other measures of responsibility to those persons. (Ibid. Art. 8 & 9)

The whistleblower has the right to court protection and may request a lawsuit before a competent court: a) establishing that a harmful action has been taken or a right has been violated for the purpose of protected application; b) prohibition of performing an act or violation of the right and repetition of an act or violation of the right for application; c) annulment of an act by which the harmful act or violation of the right has been performed for the purpose of application; d) removing the consequences of a harmful act or violation of the right for protected application; e) compensation for pecuniary and non-pecuniary damage that may be suffered by him or his close relatives due to a protected application, which is exercised by filing a complaint with the competent court. In the dispute for violation of the right of the indictee and a close

person, the burden of proof is on the side of the legal entity that violated those rights. (Ibid. Art. 10, 11 & 13)

From the stated provisions it can be concluded that the Republic of Macedonia has accepted and implemented most international standards for the protection of whistleblowers and other persons who are connected with their actions. But the Law on Protection of Whistleblowers does not foresee the existence of a separate body or agency where they will perform the external reporting and will receive a status of a whistleblower, as is the case with the United States, the Netherlands, Serbia and Bosnia and Herzegovina. In conditions when the State Commission for Prevention of Corruption does not function in our country, it is necessary. In addition, the primary issue is the very application of these laws. Three years after the adoption of the law, in many institutions and legal entities, internal acts for regulating internal reporting have not yet been adopted, or special persons or services have been appointed to which whistleblowers can submit applications, observing the principles of confidentiality and anonymity. It is particularly noted as a disadvantage in all higher education institutions. All of this, combined with traditional cultural and social attitudes, as well as the dubious relations between the policy and institutions that are supposed to enforce such protection, are still challenging for the efficiency in the application of these legal provisions.

The need for protection for whistleblowers and witnesses, with reference to higher education

Protection is required because they may face serious retaliation by the persons for whom they have made disclosure or testimony. Protection is required for the life, health, career, work, family and personal image of the whistleblowers. They face loss of work or forced retirement, negative grades for work, criticism or avoidance by associates, are placed on the so-called "Black list", maltreated and demotivated at work. Witnesses face the danger of their lives and physical integrity, as well as the danger to their loved ones. Despite the legal protection, however, reality shows continuous retaliation against these individuals. Both of them, as well as their families, suffer from severe psychological trauma and reduced physical and emotional health. While the suspect's control the working conditions and control the possibility of that person remaining in his workplace; and often they are controlled by the state institutions

themselves. (Tippett Elizabeth, 2007)⁶ Even when their information or testimonies are utterly justified, whistleblowers and witnesses are often subject to permanent social marginalization. Such ambivalence arises from the central dilemma of ignoring the problems and reporting ethics.

Many of them initially believe in laws and order, expecting the authorities to expel the proceedings to an end. When, instead, they are attacked from all sides, and even from those who reported the crime, they are beginning to ask the question - was it worth it? Unfortunately, the usual experience is against Hollywood movies where good triumphs over evil. The reality is completely different. Still, corrupt people are at the top and never brought to justice, while the lives of honest citizens are destroyed. We hear stories of revenge, victimization, sacrificial lamb and the failure of official channels on a daily basis.

The typical reaction of the suspects is retaliation against the whistleblowers and witnesses. In Norwegian legislation, revenge, in the broadest sense, means unfavorable treatment which is a direct consequence and a reaction to the notification. (International Chamber of Commerce, 2008) Whistleblowers are degraded, forced to give up work, given the most difficult and impossible tasks, or at all - exposed to insults and criticism. Witnesses are hiding from the public and are afraid of their loved ones. It can have catastrophic consequences for: 1. Health, because stress can lead to headaches, insomnia, an increased risk of infection, cancer, brain or heart attack, depression, anxiety and paranoia. 2. Finances, because they suffer their careers during trials, lose possible promotions and new jobs, can reduce their wages or lose their jobs and 3. Social ties, because engaging in investigations poses a threat to personal and family relationships. This can cause yesterday's friends and relatives to avoid them, and even lead to marital divorce.

The intimidation may discourage or prevent the indictee from reporting criminal offenses or other offenses. On the other hand, intimidation of witnesses includes any conduct intended for threat or pressure, explicitly or implicitly, to discourage or prevent the witness or victim from further significant participation in the justice system. We can identify the following categories of people as particularly susceptible to

⁶ A survey of 84 people found that "82% suffered harassment after the indictments, 60% were fired, 17% lost their homes, and 10% admitted they tried to commit suicide.

intimidation: victims, witnesses of organized crime, informants who cooperate with the police in relation to organized crime, reporters on organizational corruption and misconduct and other participants in the criminal justice system (police, prosecutors, lawyers, jurors, judges and prison officers). Intimidators use every vulnerability of the witness, (cultural, economic, social, family, or religious). Intimidation includes: isolation from sources of support (for example, family); manipulation, guilt or inducement; implicit threats, perspectives or gestures; explicit threats of violence; real physical violence; damage to property or other threats. The threats can be committed by: verbal confrontation with witnesses or whistleblowers, sending notes and letters, unpleasant phone calls, parking in front of their homes, damage to houses or property, threats to children, spouses, parents or other members of the family of witnesses, the presence of a court or other premises in witnessing, assaulting or even killing witnesses or members of their families or excluding them from the family or social community.

Intimidation and retaliation can come from many sources, such as: the perpetrator of the crime, the family or the friends of the perpetrator; networks of organized crime or collaborators and influential people in the community. They are designed to give a wide message to the public - to avoid co-operation with the authorities or not to participate in the justice system.

These methods of disrupting justice are also expressed in higher education. The autonomy of the universities, although introduced for the advancement of scientific and educational activity, began to be regarded as intangibility in every respect, as well as in terms of control over the legality of their work. Instead of a code of success, autonomy became a code of silence. Although it should be expected that the intellectual capacity of citizens, who are in any way related to this branch, should encourage freedom of thought and expression, courage in decision-making and feelings of fairness; however, there are minor or no cases of disclosure of misconduct in higher education institutions by whistleblowers - be they students or employees in these institutions.

Those who still dare to report, face hostile reactions from the academic environment. Instead of the expected correction or removal of the reported problem, they become the target of retaliation and isolation from the society. Techniques for this range from ostracism (when former colleagues and friends begin to avoid or even hail them), through an

underestimating attitude and mockery of each of their initiatives, mocking of meetings or not giving a word, an underestimating attitude towards their work and scientific works, deprivation of duties and assignment of others, disciplinary procedures; all the way to redistribution of other, lower jobs or dismissals (if the previous methods do not force the pointer to refuse himself). On the other hand, students face avoiding necessary consultations and advice from professors, making it difficult to obtain transitional grades or not getting the deserved grade (even with professors who have not been subject to disclosure), avoiding other students, stalling the most banal administrative procedures, to open up harassment and pressures. At the same time, all forms of pressures are "packed" in "legal packaging" (justification of relocation or cancellation with the need for reorganization). Whistleblowers are discredited by spreading rumors about them. On the other hand, suspects try to increase the number of supporters through promises of attractive opportunities - better jobs, promotions, protection and better pay. They devalue the disclosure through reinterpretation of the action, that is, the events are explained in a way favorable for the declared by using lies, minimizing the consequences, accusing others, and presenting the things from their perspective. Even if they try to go to another higher education institution, they are "marked" and the question is whether they will be received, and even less accepted by the environment.

According to certain considerations, the disclosure at universities is a "professional suicide".(Perry Nick, 1998) An example of this could be the one that happened with graduates from the University of Wisconsin, who reported that the institution had falsified their data and thus put at risk the funding of the grant to the entire university. Of all of them, three students, who had invested 16 years in obtaining their PhDs, abandoned further education, two others started again, and one moved to a laboratory at the University of Colorado, with the small opportunity to become PhD. Five of the students described how discouraging meetings they have with faculty members and that they stopped at the site of the laboratory director, before all the facts became available. (Couzin Jennifer, 2006) The investigator at Whistleblower's Office, who made these investigations, said in a report that he was not surprised by what had happened to the students. She said the report "feels that it's never a good career move to become an informant." (Alford Fred, 2007)

Such an example in our neighborhood occurred at the University of Pristina, where the wife of the rector of the University, who was employed at the Medical School, put the risk of dismissal after revealing the efforts of some politicians to offer more favorable treatment for some students. The investigation revealed that more than 680 students were illegally registered from October 2012 to February 2013. As a result of such disclosure, in December 2013, eleven people at the university were arrested with suspicion of several crimes (abuse of office, taking bribes, falsifying documents and other charges). (Levizja FOL, 2013)

In the Republic of Macedonia, in 2016, the Basic Public Prosecutor's Office for Prosecuting Organized Crime from Skopje filed charges against six people, four professors and one demonstrator, employed at the Faculty of Economics at the University "Ss. Cyril and Methodius" in Skopje; with reasonable suspicion that they are perpetrators of several criminal offenses provided for in the Criminal Code of the Republic of Macedonia (receiving bribery, bribery, abuse of official position and authorization and receiving a prize for unlawful influence). The court procedure for them has not yet been completed. (Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, 2016)

Useful mechanisms of protection for whistleblowers and witnesses

Although in everyday life, people identify the protection of witnesses and whistleblowers, it must be noted that they are different ways of dealing with a similar need - to encourage people to come up with information on issues that can violate laws and safety of the public, by reducing possible obstacles or commitments that may arise in connection with corruption and other misconduct.

According to the above, protection of whistleblowers could be defined as legal protection against discriminatory or disciplinary measures for employees in the public and private sector who report to competent persons or authorities in good faith and on a reasonable basis, suspicion of corruption. (OECD 2014) It exists as: 1. internal protection consisting of preserving anonymity and confidentiality of the whistleblower, protection from retaliation in the environment in which the whistleblower performs the activities and transfer the burden of proof for the presumptive retribution from the whistleblower on the suspected vendor or 2. external protection in front of competent authorities from civil and criminal liability.

Anonymity of the whistleblower, if absolute and complete, is probably the safest method of self-protection. The whistleblower is most secure if no one knows him, and even the subjects he is reporting to. We all know those banners with the word "Report Corruption!" Followed by the number from the anonymous phone line. In addition, there are opportunities for reporting electronically, with false profiles or addresses. And finally, old-fashioned sign-up with an anonymous letter. But in many countries it is considered controversial. On the one hand, it is useful because, besides protecting it, it can be a motive for more people to report irregularities. When someone knows that no one wants to identify, there will certainly be more courage to report irregularities. Transparency International also suggest anonymous whistleblowing. (Transparency International, 2009) Conversely, the requester's identification requirements may discourage disclosure. But, on the other hand, this may undermine the basic principles of disclosure, and that is - there is a reasonable basis and good will for this, that is, the indictee believes that the information is accurate and useful to the community. Unfortunately, in case of anonymous disclosure, there will be too much information, many of which may be malicious and fake, which will only take the unnecessary time for the institutions to verify them, making reporting systems less effective and will increase the difficulty of investigations. (OECD, 2016) This will call into question the reputation of unjustly suspects, who will then not be able to exercise their civil rights to sue for defamation or insult. In addition, there are social and legal obstacles. Anonymity can make the whistleblower "too self-confident" and would devalue his self-responsibility. Because of this, the competent authorities give less importance to anonymous communications and they are rarely admitted as evidence in the courts. (Stephenson Paul & Levi Michael, 2012) Therefore, many jurisdictions do not accept anonymous disclosures and clearly state that they will not be acted upon. Only rare laws, accept and protect anonymous disclosures. But they also accept them as a last resort. Given these arguments, such mechanisms must be established, which, on the one hand, will maximize the flow of information, while ensuring the accountability of the disclosures.

Therefore, perhaps a better solution to anonymity is *confidentiality*, which means that the person or body responsible for obtaining information from whistleblowers should know from whom they receive it; but also to be in charge and to keep their identity in the greatest

secrecy, and the eventual disclosure must be in exceptional cases - in the interests of the further procedure, with the consent of the whistleblower and the decision of the competent authority, for which the whistleblower must be informed as soon as possible. Therefore, it should be stipulated in each country that the information received is an official secret; and in each legal entity to prescribe policies and rules for preserving the data of the whistleblowers. In the United States, the disclosure of the whistleblower's identity without consent is prohibited unless the Office of the Special Adviser "finds that the disclosure of an individual's identity is necessary because of an imminent threat to public health or security or the immediate violation of any criminal law". In India provided for imprisonment and a fine for disclosing the identity of the whistleblower. (G20, 2012) The purpose of this policy is to provide a framework for promoting responsible and reliable disclosure, with simultaneous protection of whistleblowers who wish to report irregularities. This makes the person, through his / her identification, to be given a status of a referrer, in order to provide him with the appropriate and legally prescribed protection deriving from such status. However, confidentiality can provide a false sense of security, because according to certain parameters (the number of employees, the circle of people who have access to certain information, the attitude of the whistleblower to the environment etc.), there is a high likelihood that such confidentiality will fail and the whistleblower to be identified, after which it will again face reprisal measures, discrimination / victimization and criminal or civil liability. But that is why they are given status of whistleblowers - if they are revealed, they should be provided with adequate protection.

The logical addition to the issue of confidentiality is the establishment of *appropriate mechanisms and channels for reporting irregularities*. They must protect confidentiality by protecting the identity of the whistleblower, as well as protecting the information received. But at the same time, access to them is not difficult, it is clear to whistleblowers, so as not to discourage and provide the maximum amount of information. And the G-20 countries require clear internal disclosure rules that can help organizations manage the reporting, correct irregularities, and prevent costly disputes, reputational damage, and accountability in a way that best suits their needs. (Wolfe Simon et al, 2014)

Whistleblowers must always be *informed about the course of action on their information* and the outcome of it. (United Nations Office on Drugs

and Crime, 2015) It is essential to ensure that after an irregularity is reported, an appropriate investigation is carried out and the indictee can effectively monitor the course of the procedure and be given an answer as to how it proceeds and how it ended. The whole process of action must be transparent and the indictee should be allowed to review and comment on the report on his information. The lack of confidence in the ability or willingness of the authorities to investigate the application is one of the biggest obstacles to reporting.

Unlike previous measures that are most commonly applied while the identity of the referrer is still protected; much more important for whistleblowers is their *protection against various forms of retaliation*, once their identity is revealed or assumed. The extent of coverage of protected persons should be broad to cover all individuals who may potentially be subject to revenge. Apart from whistleblower, the scope of protection should include all those persons who in some way are brought into contact with the whistleblower. A wider approach could extend the protection of family members. (U4 Anti-Corruption Resource Centre, 2009) It is also important to clearly define all possible retaliatory activities to ensure comprehensive protection of whistleblowers. Revenge usually takes on countless forms: discrimination, especially in terms of compensation, benefits, training, tasks, professional promotion, qualification / retraining, exclusion from recruitment or access to internship or training, transfer to another job or renewal of a contract against his will, direct or indirect disciplinary procedures, labor sanctions, loss of status and punitive transfers, unfair dismissal or ill-treatment at work, dismissal, suspension, humiliation, ill-treatment or intimidation; imposing conditions for employment or retirement that change to its detriment; giving negative reference from the employer, refusal of an appointment for employment, profession or service, etc. An excuse for this can not be a rejection of an order because the whistleblower has the right to reject the order for participation in illegal actions. In addition, the rights of whistleblowers are more important than employee loyalty and confidentiality agreements or keeping a secret. It is therefore necessary to prohibit discrimination or alteration of the worker's status and to ensure that any damages to the working status of a person will be corrected immediately. In this direction, any procedure or legal act aimed at retaliation must be annulled. Any disclosure made within the law, enjoys immunity from disciplinary proceedings. On the contrary, disciplinary and personal responsibility

must be subjected to the person who performs revenge or other misconduct towards the whistleblower. These rules are accepted by several European countries. For example, in Italy, whistleblowers can not be punished, dismissed or subjected to any direct or indirect discrimination, which would have an impact on the working conditions directly or indirectly related to the report. (G20, 2012) While Ireland is seeking to allow whistleblowers to file a criminal responsibility claim against a vindictive third party. (Department of Public Expenditure and Reform, 2012) It is important to note that protection against retaliation must not be limited to a short period after publication, since revenge may appear for several months or years after the initial disclosure. (OECD, 2016) Therefore, adequate and prolonged oversight is needed, which can be achieved through independent bodies, ombudsmen or courts.

At the same time, *the burden of proving* that there is or does not exist revenge must not be on the whistleblower, but on those who are suspected of being vendors. They must prove beyond reasonable doubt that all measures taken at the detriment of the whistleblower are motivated for other reasons, regardless of the subject of disclosure. In the United States, the organization has the obligation to prove "with clear and convincing evidence that they would take the same actions and if such publication was absent." In the United Kingdom, the burden of proof depends on the length of employment of the employee. If they have been employed for over a year, the employer must prove that the dismissal has nothing to do with publication; if they were employed less than a year, the employee must prove that he was discriminated against due to publication. (UNODC, 2008) This makes an effort to resolve the dilemmas that an employee may face in proving that revenge is a result of the disclosure, especially since many forms of repression are very subtle and difficult to determine.

Some countries impose criminal sanctions if employees disclose information about official secrets or national security. This can be a serious obstacle for the whistleblowers, because if they know that they can be subject to criminal or civil liability, they will be discouraged to report. Therefore, an effective safeguard mechanism should include the regulation of *ways to release whistleblowers from civil and criminal liability* for defamation or breach of confidentiality and professional secrecy provisions. This should also exist for any disclosure made in an unintentional error.

In cases where revenge can not be prevented and when the information provider has suffered damage, the mechanisms for protecting the whistleblowers should include appropriate *financial assistance*. Compensation must be comprehensive in order to cover all direct, indirect and future consequences of revenge; as well as to allow the person's face to be screened in an identical position as before the announcement. It must take into account not only the lost wages, but also compensation for the suffering. This should include subvention for litigation, lawyers and mediation, transfer of a new department or other superior, compensation for lost past, present and future earnings and status and compensation for pain and suffering. Consideration should also be given to providing assistance in legal procedures and to financially supporting whistleblowers who have a serious need. For this, a real time frame should also be envisaged in which whistleblowers will exercise their rights. If protection is not provided, timely or insufficient, whistleblowers should be entitled to court proceedings before an impartial forum with full right to appeal.

In some countries, *rewards and incentives* for disclosure of corruption are provided. For example, South Korea penalizes those who discriminate against whistleblowers and gives them a monetary reward if the discovery of corruption leads to an increase in revenue or prevents loss in the organization. The amount ranges from 4% to 20% of the amount of money that has been increased, recovered, or saved. The Revenue Office in Kenya rewards individuals who inform tax evaders, with the reward being a percentage of the amount charged as a tax. (UNODC, 2008) And there are huge rewards for the whistleblowers in the United States. While this should not be of widespread use, because it will devalue the generally useful work of the whistleblowers, it must not be excluded and can be an additional incentive for them.

The failure of effective protection or mistrust in the institutions necessarily imposes the need for *self-protection*. In order to resist potential retaliation or intimidation, whistleblowers can protect themselves through the following counter-methods: 1. to be careful about whom they report - to do so only if they have confidence in someone, which is impossible; 2. To confirm the purpose - to demonstrate that they are credible and able to maintain their credibility in the face of devaluation attempts; 3. interpret the action on the opposite side as injustice - should emphasize injustice and resist lies, minimization, accusations and tactics used by the other; 4. build support

- not to rely solely on official channels, but to seek allies and supporters and mobilize them, so that they can take action (family, friends, associates and others), that is, to win them on their own; 5. To resist intimidation and to refuse the offered rewards; 6. Before taking action, prepare evidence of the problem: letters, photos, footage, statements; 7. to be well acquainted with the problem (to consult well-informed persons, as well as research findings); 8. To propose solutions and to give advice; and 9. To reveal the problem to the public at the right moment as final against a cover-up, because speaking is more powerful than silence.

It must be noted that *there is no explicit legal obligation for the whistleblower to testify*. However, taking into consideration the legal provisions that the identity of the whistleblower can be detected by a court decision, when it is necessary for conducting a procedure before a competent authority, it can be assumed that the whistleblower can be called in the further procedure. This is further confirmed by the aforementioned provision of our Law on Protection of Whistleblowers that the authorized person for the receipt of notification from pointers is obliged to inform the indictee that during the receipt of the information his identity can be detected by a competent authority, as well as to inform him of the measures for protection in criminal proceedings. (Law on Protection of Whistleblowers, 2015, Article 7) However, it must be noted that there are substantial differences in the protection of whistleblowers and witnesses.

Prosecutors in the criminal procedure do not need whistleblowers, but he is dependent on the witnesses who are reliable and whose testimony can be accepted as true, accurate and complete. The withdrawal of witnesses from the proceedings may result from the witness's fear that their cooperation with the institutions will cause retaliation for them or for their family members. In such circumstances, it is necessary for those who are afraid of the consequences of the testimony, to provide protective measures or support measures that will mitigate their fears.

In this regard, the UN Convention against Corruption (UNCAC) provides for a wide range of measures that can be taken on the basis of risk assessment - from simple and acceptable security measures to more formal witness protection schemes involving relocation and change of identity. The criminal prosecution of the perpetrators for intimidation of the witness may also be a means of protecting the witness. UNCAC's

protection measures include physical protection, relocation elsewhere in their home country or abroad, which allows the non-disclosure of the identity or place of residence of witnesses and a special arrangement for providing evidence. All these procedural protection measures can be divided into three categories:

- The first level is police protection, which involves preserving the confidentiality of investigations, minimizing contacts with the police and prosecutors, etc.
- The second level involves solving uncertainty with simple measures such as adequate security presentation, increased security in the home (locks, windows), regular patrolling of the police, mobile phone, installation of safety devices, relocation, etc. and
- Judicial and procedural measures relate to the measures taken by the prosecutor or the court to ensure that the witness can testify without fear and intimidation for their safety and life. The adoption of these measures is decided by the court and they can be undertaken in order to avoid confrontation with the defendant face-to-face, to make it difficult for the defendant or his / her relatives to recognize the identity of the witness or limit the witness's exposure to public or psychological stress. There are usually no legal restrictions on the type of criminal offenses or witnesses for which these measures may be permitted. These types of measures may include anonymous testimonies, presence of a companion, shields, mask or rebuked voice, use of a pre-trial statement, instead of public testimonies, video testimony, removing the defendant from the courtroom.

Extracurricular witness protection contains secret UNCAC witness protection programs as a "formally established secret program with strict admission criteria that enable the relocation and change of the identity of witnesses whose lives are endangered by a criminal group for their co-operation with the enforcement authorities of the law".(UNCAC, 2003)

These measures can also be applied in sensitive cases (trafficking in human beings, sexual crimes, children's witnesses and family crimes, inter alia) in order to prevent the revision of witness victims by limiting their exposure to the public and the media time of trial. These include: a) the use of an investigative statement by the witness, rather than

testifying in court; b) presence of a companion for psychological support; c) testimony through closed-circuit television or video conference; d) distortion of the voice and the face; e) removing the defendant or the public from the courtroom or f) anonymous testimony.

According to our Law on Witness Protection, a "protected person" is a witness, a collaborator of justice, a victim who appears as a witness and their close relatives, who, with a decision of the Council for Witness Protection, is included in the Protection Program and with which The Witness Protection Unit has concluded an agreement for protection. While the "protection program" is a system of measures and activities undertaken by the Witness Protection Unit to protect the life, health, freedom, physical integrity or property of a larger scope of persons involved in it. (Law on Witness Protection, 2005, Art. 2 par. 5 & 6)

The information to which persons performing official duty in relation to protection measures will come in the course of performing the duties shall be classified information with an appropriate degree of secrecy in accordance with the law. Any person or body involved in the protection procedure may not, without the authority of the Department, provide any information related to a particular witness, a contributor to justice and the victim when presenting as a witness and their close relatives, as well as protection measures, in the period prior to the inclusion in the Program, during the implementation of the measures and upon the termination of the Program. The exchange of data between the competent authorities shall take place in such a way that the security of the witness and the collaborator of justice and the victim should not be compromised whenever they appear as witnesses and their close relatives. (Law on Witness Protection, 2005, Art. 4) The inclusion in the program is only with the consent of the witness and if the conditions stipulated by this law exist.

Article 26 of this Law provides for the measures for witness protection, as follows: 1) preservation of identity secrecy, which includes the preparation and use of personal documents in which the personal data of the protected person are temporarily changed, as well as the preparation and use of documents about the ownership of a particular property of the protected person (Article 28); 2) the provision of personal protection consists of the operative, physical and technical protection of the protected person, in order to prevent the endangerment of his life, health, freedom, physical integrity or property

on a larger scale; 3) change of residence or temporary residence is realized through temporary or permanent change of his / her place of residence, or stay with another dwelling place, which will be determined by the Unit, and 4) change of identity consists of change of personal data of the protected person. (Art. 26-31)

Anyone who leads to the disclosure of the protected witness's identity shall be deemed to be the perpetrator of a criminal offense and shall be sanctioned accordingly.

Despite all the above mentioned measures to protect the whistleblowers and witnesses, it can be said that most legislation devoted to this area is incomplete and that it affects the efficiency of these laws. The existing legal gaps in the laws devalue the scope of legal protection and must therefore be eliminated.

On the other hand, the relevant by-laws that regulate disclosure in the institutions are missing. No higher education institution has a rulebook that regulates these issues.

Unlike the Republic of Macedonia, in most universities in the world, there are special regulations that provide protection for pointers. For example, at the University of Birmingham, (UK) has adopted a "Policy and procedure for disclosure of public interest and whistleblowers" that are designed to enable employees, students and all members of university bodies to raise it to a higher level care and share information about corruption. Individuals who reveal obvious evidence of corruption should feel free to publish the information, without fear of retribution. All disclosures under this policy will be treated in a confidential and sensitive manner. If necessary, the identity of the person raising the question will remain concealed for as long as possible, provided that it is compatible with an effective investigation. The research process may, however, at some stage need to disclose the source of information and the individual making the disclosure may need to make a statement as part of the necessary evidence. Individuals are encouraged to put their name on any disclosures they make, as one of the goals of this policy is to promote openness and discourage the fear of repression. (The University of Birmingham) A similar policy exists at the University of Brighton (UK). According to that, the employee can give a disclosure to the employer or to an appropriate authority (person or body) and will have the right to protection under the laws, if they reasonably believe

that the information disclosed and all the allegations contained therein are significantly accurate. No employee who has made a disclosure will be a victim, in particular with regard to continued employment and the opportunities for his future promotion or training or to initiate any action against him. An exception to this is when the employee consciously and deliberately presented a false claim, which is the basis for a disciplinary offense. (University of Brighton, 2014)

By using these positive experiences, in order to achieve greater success by tackling corruption in higher education, it is desirable for our higher education institutions to adopt internal acts and policies for protecting the whistleblowers; as well as to nominate authorized persons for receiving applications from whistleblowers and they are available and publicly announced.

CONCLUSIONS AND RECOMMENDATIONS

In conditions of increasing metastasis of corruption in all countries of the world, the protection of persons who have the courage to dissuade and testify about it is a key tool for its detection and prevention. It is therefore necessary to encourage and facilitate the disclosure and testimony of all irregularities in society. The state has an obligation to provide assistance and protection to persons who are likely to be harmed because of their cooperation with the criminal justice system. The success of these operations depends on the provision of key evidence to effectively deal with crime. In contrast, intimidation of whistleblowers and witnesses can have multiple and serious consequences - they withdraw from further testimony, perpetrators avoid the responsibility for their activities, and the public loses confidence in law enforcement processes, which generally can to encourage criminal behavior.

With the adoption of the Law on Witness Protection and the Law on Protection of Whistleblowers, the Republic of Macedonia took the first steps and this is a very important evolution in the fight against corruption, since the ways of its realization, involving persons acting in secret, can not be discovered differently, except in this way. However, these steps are rather shy, vaguely and legally incomplete, with obvious gaps. On the other hand, people are still not aware of their role in the

combat to prevent corruption. Many believe that in a "captive society" it is a waste of time and that it will only lead to unnecessary problems, which is not far from the truth.

The findings of this scientific paper show that the protection of the whistleblowers, who are faced with retaliatory measures after the act of disclosure, is still weak. Even the best laws cannot ensure their full protection against all risks and often they are prevented from continuing their work and can face long-term exclusion that affects their health and financial status, just like their families. There is a widespread opinion, most often justified, that expressing resistance and opposing attitudes towards superiors can result in loss of work and ending relationships with the society. The notion that "the messenger carrying bad news, kills the first" is still present in the minds of citizens and is one of the main reasons for tolerance of illegal behavior. Moreover, the pointers are seen as snitches and traitors, not as heroes or useful people. To change this, not only are the laws, but also the change of culture and traditions that will overcome the old matrix of the human psyche, which requires a wider social and political commitment. It does not depend on the efforts of the state alone, but also on the wide support and involvement of other entities, such as trade unions, business associations and civil society organizations. They can contribute to raising awareness of the combat against corruption and the significance of whistleblowers and witnesses.

Essential for effective protection is the increased education of employees about the need for disclosure of corruption and their rights to protection in case of reporting corruption because "they are not protected by any law, if they do not know that there is" This means greater promotion of such policies among employees and the creation of legal obligations for employers to inform employees of the mechanisms for detecting corruption. Each employee should be aware of what types of disclosure are or are not protected by law. It is therefore necessary to establish internal training policies and training programs to promote employee awareness. This will contribute to raising awareness of the rules and procedures of disclosure and protection of whistleblowers and the creation of a new culture of transparency.

It is also essential to establish clear and accessible reporting channels within the institutions themselves, such as independent bodies for receiving, processing and examining reports. And also - an independent agency capable of encouraging people to feed it with information, but

also capable of providing protection and financial compensation in case of negative consequences for them and their relative.

Only with the effective implementation of laws and with the change of the citizens' awareness can create a favorable climate for successful dealing with corruption.

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Preventing Corruption in Higher Education in Macedonia through Whistle-Blowing: Lessons Learned

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ABSTRACT

Recent study has showed that there is high perception of corruption among students and university employees in Macedonia. The Law on Whistleblowers' Protection has not been implemented at many universities as they lack effective procedures for preventing corruption including appointment of authorized individuals for reporting corruption. This paper presents the lessons learned from the implementation of "Corruption Free University Project", a 12 months long project of the Institute for Strategic Research and Education (ISIE) with regard to findings about corruption in higher education in

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Macedonia and implementation of the Law on Whistleblowers' Protection in the academic sector.

Key words: *Higher education, Corruption, Whistleblowing, Macedonia, Universities, South East Europe.*

INTRODUCTION

According to the latest Transparency International Report, Macedonia is identified as a country with a high level of corruption. Fight against corruption in the society including higher education represents a crucial precondition for improvement of the rule of law and the effective administration of justice. ISIE recent study on the potentials of the Whistleblower's Act in the prevention of corruption conducted at 4 universities (in Skopje, Bitola, Stip and Tetovo) has revealed that 54% of respondents consider that corruption exists at universities (Докмановиќ, Груевска-Дракулевски & Шапкова Коцевска, 2017).

The survey conducted with 501 students disclosed other disturbing data: (1) 25% of respondents would not report corruption; (2) 2/3 of the students were not aware that the Whistleblowers' Act is in force; (3) 90% of the students did not know the name of the authorized person for reporting corruption at their university and (4) 90% considered that the students should be more informed about the new law. Students have identified regular classes, websites and social media as the most appropriate mechanisms for their information.

Moreover, 97% of the employees interviewed during the preparation of this study were not aware that an authorized person for reporting has been appointed at their institution and 65% did not believe that the law would provide an efficient framework for corruption prevention.

Additionally, the issue of corruption in higher education affects a large segment of the population. In that direction, table 1 shows the official statistical information regarding the number of teachers, supporting staff and students at the faculties and higher vocational schools in Macedonia.

Table 1. Number of teachers, supporting staff and students at the faculties and higher vocational schools in Macedonia

Year	Teachers (Total)	Supporting staff (Total)	Students (Total)
2009/2010	2 057	1 407	57 894
2010/2011	2 276	1 585	63 250
2011/2012	2 240	1 422	58 747
2012/2013	2 207	1 223	56 906
2013/2014	2 301	1 053	57 746
2014/2015	2 453	1 163	59 359
2015/2016	2 801	1 179	59 865
2016/2017	2 923	1 191	58 083
2017/2018	2 961	1 169	56 941

Source: State Statistical Office of the Republic of Macedonia, 2018, p. 11.

Having in mind the aforementioned trends, ISIE has implemented the Corruption Free Project with the aim to improve the fight against corruption in the country through the implementation of the Whistleblowers' Act.

ABOUT "CORRUPTION FREE UNIVERSITY" PROJECT

The "Corruption Free University" was a 12-month project to prevent corruption in higher education through strengthening the capacities of universities and student bodies in Macedonia to implement the Whistleblower's Act. The project was implemented in the period from October 2017 – September 2018 by the Institute for Strategic Research and Education (ISIE) and funded by the US Embassy in Macedonia.

The main goal of the project was to promote rule of law, provide effective administration of justice and prevent corruption among students and university employees in the higher education system of Macedonia.

This general goal was narrowly related to the objectives of the project, including: (1) to raise awareness of all stakeholders in higher education system for the need of implementation of the Whistleblowers' Act; (2) to strengthen the capacities of university

administration as well as the capacities of students, student bodies and organizations to implement the Whistleblowers Act.; and (3) to promote the establishment of enabling environment for reporting corruption.

“Corruption free university” project has incorporated different activities aiming at achieving the main goal. In order to raise awareness of all stakeholders in higher education system for the need of implementation of Whistleblowers’ Act, series of events have been organized. Firstly, high level roundtable regarding the legal requirements for implementation of the new law was organized in December 2017. As part of this event, rectors of all 7 public universities were invited to discuss the need for systematic approach toward corruption prevention and signed the “Corruption Free University Declaration”. Afterwards, flyers and other materials were prepared to disseminate information about this important challenge in public, especially the student and academic community. Moreover, a form for internal reporting was prepared and distributed to the universities in the country. All of the resources and outputs were made publicly available on the website of the project, www.univerzitetbezkorupcija.mk and promoted through social media channels.

Another set of activities were conducted in order to strengthen the capacities of all relevant stakeholders in the academic environment to consistently implement the Whistleblowers’ Act. The stakeholders’ group was consisted of the university management and staff and representatives from student bodies and organizations. In that direction, a university corruption prevention policy and a Brief guide for Whistleblowers’ Act implementation was developed and published. Additionally, four trainings in four university centers in Macedonia were organized (Skopje, Tetovo, Shtip and Bitola).

Participants at the trainings were representatives of the management and administration of the universities in these four major university centers in the country. An academic conference on the topic of anticorruption and whistleblowing in higher education, also, was one of the key project activities. The conference took place at the South Eastern European University in Skopje on September 11, 2018. A total of 11 papers were presented at the conference. In order to strengthen the role of student organizations and bodies in the fight against corruption, a special training was organized aimed at developing

innovative approaches in fighting and reporting corruption in June 2018. Moreover, 3 student follow up activities were carried out in Bitola, Skopje and Tetovo.

Corruption Prevention Environment at Macedonian Universities with Special Emphasis on the Implementation of the Whistleblowers' Act

Law on Whistleblowers' Protection⁴ is the basic act that is regulating the whistleblowing and whistleblowers protection in Macedonia. This law was first enacted in November 2015, and later amended in 2018. This act regulates the protected whistleblowing, in the public and the private sector, for the purpose of protecting the public interest, the rights of whistleblowers, as well as the activities and the duties of institutions, that is, legal entities in relation to the protected whistleblowing, and the provision of protection for whistleblowers (Art. 1). By protected whistleblowing is considered "blowing of the whistle" that conveys a reasonable doubt or knowledge that a punishable, unethical or another unlawful or illegal act infringing or jeopardizing the public interest has been committed, is being committed or is likely to be committed.

This Law, also, precisely identifies the categories of subjects that can be whistleblowers and claim protection under this Law. In that direction, the whistleblower status can be given to either a person who is employed for an indefinite or definite period of time at an institution⁵, that is, a legal entity about which he/she blows the whistle; or a job candidate, a volunteer or trainee candidate at an institution, that is, a legal entity about which he/she blows the whistle; or a person who is or has been a volunteer or a trainee at an institution, that is, a legal entity about which he/she blows the whistle; or a person who is hired or has been hired for doing a job on whatever ground by an institution,

⁴ Law on Whistleblowers Protection ("Official Gazette of the Republic of Macedonia" no. 196/2015 and 35/2018).

⁵ The term institution refers to a body of the state or local authority, another state body established in accordance with the Constitution of the Republic of Macedonia and by law, an agency, fund, public institution or public enterprise established by the Republic of Macedonia or by a municipality, the City of Skopje, and a municipality of the city of Skopje, as well as another institution registered as a legal entity in dominant or full state ownership (Art 2).

that is, a legal entity about which he/she blows the whistle; or a person who has or used to have a business relation or another form of collaboration with an institution, that is, a legal entity about which he/she blows the whistle; or a person who uses or has used services of an institution, that is, a legal entity in the public or the private sector about which he/she blows the whistle (Art 2).

The Macedonian Whistleblowers law has foreseen three types of whistleblowing: internal, external and public. Protected internal whistleblowing is reporting within the institution, that is, the legal entity wherein the whistleblower suspects or has an information that a punishable action or another unlawful or illegal act violating or jeopardizing the public interest has been committed, is being committed or is to be committed (Art 4). On the other hand, the protected external whistleblowing, refers to filing a report to the Ministry of Internal Affairs, the competent public prosecution office, the State Commission for Prevention of Corruption, the Ombudsman of the Republic of Macedonia, or other competent institutions (Art 5).

The Law also includes the procedures and preconditions for each form of whistleblowing, regulates the protection of whistleblowers' identity, burden of proof of whistleblowing, abuse of reporting and other relevant topics relating this activity.

The Law on Prevention of Corruption⁶ is also applicable in respect to the prevention of corruption at universities. This Law regulates the measures and activities for prevention of corruption in the exercise of power, public authorizations, official duty and politics, measures and activities for prevention of conflict of interests, measures and activities for prevention of corruption in undertaking activities of public interest by legal entities related to execution of public authorizations, as well as measures and activities for prevention of corruption in trade companies (Art 1). By corruption, in this sense, the lawmaker foresees the misuse of office, public authorization, official duty and position for the purpose of gaining any benefit for oneself or others (Art. 1-a). Moreover, this law

⁶ Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia" nos. 28/2002, 46/2004, 126/2006, 10/2008, 161/2008, 145/2010, 97/2015 and 148/2015).

regulates the prevention of corruption in performance of public authorizations.

The Law on prevention of conflict of interest⁷ is also relevant for the issues at hand. It was first adopted in 2007 and amended in the following years. This Law is defining the conflict of interest, actions to be taken in case of conflict of interest and the measures for prevention. The law focuses on exercise of public authorizations and duties by officials. According to this law, the official must not: accept or request benefits in return for performing his/her duties, exercise or acquire rights by violating the principle of equality before the law, abuse the rights arising from the performance of authorizations, accept awards or other benefits in return for performing the activities related to the public authorizations and duties, require or accept awards or services in order to vote or not to vote or to influence the adoption of a decision by a body or person so as to gain benefits for him/herself or benefits for his/her closely affiliated persons, promise employment or exercise of any other rights by accepting a gift or a promise for a gift, and influence the public procurements decision-making process or in any other way use his/her position in order to influence the adoption of the decision for the purpose of accomplishing private interests or benefits for him/herself or for his/her closely affiliated persons (Art 5).

Finally, one of the most important innovations in the legal framework regarding the corruption prevention is the new Law on Higher Education. This law was enacted in 2018 and replaced the old law which was amended 21 times since 2008.⁸ The new Law has foreseen that the University Senate would appoint a person for receiving reports of corruption. The aim of this measure is to prevent corruption at universities more efficiently. The appointed person should be a fulltime professor employed at the university. The mandate of the authorized person is 3 years and could be reelected for an additional term of office. This authorized person is obliged to prepare a report which is presented to the University Senate twice a year.

⁷ Law on Prevention of Conflict of Interest ("Official Gazette of the Republic of Macedonia" nos. 70/2007, 114/2009, 6/2012 and 153/2015).

⁸ Law on Higher Education ("Official Gazette of the Republic of Macedonia" no. 82/2018).

LESSONS LEARNED

During the diverse project activities, having in mind the relevant national and international legal framework, we have identified several conclusions regarding prevention of corruption in higher education in Macedonia through whistleblowing. For the purposes of this research project, we have titled these conclusions as lessons learned and structured them in two major groups: lessons learned regarding corruption in higher education and lessons learned regarding whistleblowing in higher education institutions in Macedonia.

Lessons learned regarding corruption in higher education

As it was emphasized at the beginning of the paper, corruption in higher education system is one of the biggest challenges Macedonian universities face. The fight against corruption requires systematic and organized approach by all of the members of the academic community. Having this in mind, in this part of the paper we will present the lessons learned from our 12-months experience working on this project.

Universities are willing to participate. The project received a very positive feedback from the universities. All approached public and private universities except for one private university accepted to sign the Corruption Free University declaration. All seven public universities in Macedonia have signed the declaration on December 19, 2017 on a ceremony widely covered by the media. Following the ceremony, five private universities have additionally signed the declaration. All signatories of the declaration were the rectors of the universities which demonstrated a clear position of the management to address the issue of prevention of corruption through the implementation of the Whistleblower's Act. The ceremony had an additional effect due to the fact that the Minister of Education and Science has presented the text of the new Law on Higher Education at the event.

Corruption Free University project promoted a tailor made approach in dealing with the challenges universities faced. For instance, there were examples of universities that still have not appointed an authorized individuals for reporting corruption cases (as required in the Whistleblowers' Act). In that direction, immediately after the signing ceremony, the rector of the St. Paul the Apostle University in Ohrid has

informed our team that he has appointed an authorized individual whose contact details have been made public.

Another project success story represented the fact that the two biggest universities (Ss. Cyril and Methodius University in Skopje and St. Kliment Ohridski University in Bitola) have published on their websites all produced documents during project duration including the Guide on Whistleblowers' Law Implementation, the University Policy on Corruption Prevention as well as the forms for reporting corruption. All documents are available in Macedonian and Albanian language. Additionally, these documents have been published at private universities as well. For instance, a best practice example represented the International University Vizion in Gostivar which also published all produced documents online.

Trainings matter. A large number of project activities have been dedicated to the issue of capacity building trainings. In that respect, the Institute has organized five trainings to improve the capacities of the university administration and students to report corruption. At this point, no official guide, university police or simple form for reporting corruption existed at the universities. Our team has developed aforementioned outputs and trained the representatives on the implementation of the Whistleblower's law. The trainings combined theory and practice. We have selected relevant university professors and a representative of the State Commission on Prevention of Corruption in order to bring the practical side of the issues at hand. Apart from the traditional training delivery, during the events held in Skopje, Bitola, Stip and Tetovo, the participants had the opportunity to interact among each other, share their experience regarding corruption prevention and raise questions regarding the implementation of the new legislation. The trainings have set a non-formal group for communication among representatives of different universities which eventually, assisted in the multiplication of the project results. Given the fact that university administration does not have an opportunity to participate in capacity building programs frequently, the project trainings setting provided a new learning environment for the participants.

Students are crucial. Students represent a crucial segment for the prevention of corruption in the higher education in any country in the world. Our previous survey conducted in 2016 at the key university centers in Macedonia have showed that university students have very

low knowledge of corruption prevention legislation including the new Whistleblower's Act. Additionally, the 2016 survey was conducted with law students only, as we expected that this category would have the best knowledge of the laws. These trends were the primary reason why we have decided to put a special emphasis on the interaction with students.

The corruption at universities could be prevented only if 1) students are informed; 2) anticorruption mechanisms are in place and 3) students are willing to report corruption. Unfortunately, it seems that none of these elements existed at Macedonian universities at the beginning of the project. Having in mind that for a longer period of time at many Macedonian public universities, no elections for student organization representatives have been organized, the project has made an attempt to involve student representatives through training and follow-up activities. This turned out to be a more than appropriate approach since students were very motivated to participate. Over 50 students from all university centers in the country have taken part in the training held at the American corner in Skopje in June 2018. Clear motivation of the students was further manifested during the implementation of the student follow-up activities. Many of Skopje student training participants actively implemented the follow-up activities held in September 2018 which included: promotion of lessons learned, promotion of online recourses and the project website (www.univerzitetbezkorupcija.mk), distribution of flyers and social media campaign (The whistle is in your hand, use it!).

International Conference on Corruption, Higher Education and Whistleblowers. In order to boost discussion about the implementation of the Whistleblowers' Act, an international conference was organized at South East Europe University in Skopje in September 2018. The conference has gathered over 20 experts from Macedonia and the region of South East Europe to discuss the issue of corruption in higher education. The project team has set a Program committee of relevant experts from the United States and the European Union which has attracted a high number of applications. During the event, over 20 domestic and foreign experts have exchanged ideas and experience in respect to the prevention of corruption at universities. The papers have been published in a publication which is available online on the project website and as a hardcopy.

Social media. Finally, one of the key elements for multiplication of the project results was the utilization of the social media in particular Facebook. New generations use modern communication tools very often and the project team promoted a new approach in respect to content and distribution of information. In that direction, social media turned out to be the perfect channel for promotion of activities and mobilization of student population in particular in reference to follow-up activities and dissemination of information. The social media promotion has had an impact on the overall number of visitors of the project's and our Institute's website and further improved the outreach of our activities. Having in the mind the positive experience with the utilization of social media, in the future the institute will further analyze the potential of use of other social media in especially in respect to different age groups.

Changes should be visible. Over the course of the project we have encountered several challenges the universities face in the implementation of the law. For instance, many universities did not have internal procedures or forms for reporting corruption or have not appointed an authorized individual for reporting corruption. In order to make sure that the project activities do not end at declaratory level for change, the project team has developed a tailor made approach and assisted universities to address the emerging issues. Moreover, during the meetings, trainings and conversations with relevant university policymakers and key stakeholders in the higher education, we managed to identify several points that are especially vulnerable to corruptive behavior. Thus, corruption is more likely to appear in the public procurements of goods and services, especially when it comes to construction activities and transactions where buying or selling real estate (for example, buildings) were concluded; employment of new university staff and promotion of current employees; access to computer network and data management; financial transactions; receiving grants and project application; forcing students to buy course-books written by the university staff; misuse of intellectual property and protection of private data; and student grading. These are areas in which universities could evidently improve their practices and provide visible changes in enabling corruption reporting environment.

RECOMMENDATIONS

Based on the lessons learned during the implementation of project activities, the following recommendations have been formulated:

Universities should respect the laws for corruption prevention.

One of the key issues identified during the project activities represented the issue of full implementation of the Whistleblowers' Act in particular to the obligations regarding reporting and appointment of individuals for receipt of reports. One of the obligations foreseen in the Whistleblowers' Act is that the authorized, that is, the managerial persons in the institutions, that is, the legal entities in the public sector to which reports are submitted, shall be obliged to submit semi-annual reports about received reports from whistleblowers to the State Commission for Prevention of Corruption. On the other hand, the State Commission for Prevention of Corruption is obliged to submit an annual report for received reports from whistleblowers within its annual work report to the Macedonian parliament (Art. 15). What we have learned by now is that, starting from the enactment of law until present, the State Commission for Prevention of Corruption has not received a single report for protected internal whistleblowing.

Universities should set an internal and efficient framework for corruption prevention and reporting within their institutions.

Another important obligation in the Whistleblowers' Act is that the managers should appoint an authorized person for receipt of reports from whistleblowers in the institution. However, our experience showed that majority of the universities and/or schools have not appointed an authorized person for receipt of reports from whistleblowers. In most of the cases, the authorized person for receipt of reports from whistleblowers is the Dean. In some cases, a member of the administrative staff is appointed. On the other hand, this can be considered to be a problematic practice, especially in the faculties / schools that are organizing lectures and programs in more than one city (e.g. geographically dispersed studies). Portion of the students studying at the above-mentioned institutions can be put in unfavorable position, since they will not be able to approach the authorized person or the dean as easy as the students living in the city where the school is located. As a result of

that, we recommend that the best practices of the State Commission in respect to the appointment of the authorized individuals should be implemented by the universities.

During the Corruption Free University Project we have identified that a large number of the universities and schools have not prepared internal acts regulating procedures for internal protected whistleblowing as well. Although this is not strictly required, still in order to stimulate potential whistleblowers' trust and encourage reporting, the universities should incorporate some special requirements to protect whistleblowers' identity. These special requirements include appropriate office premises, separate computer with password, safe internet connection, separate phone line etc., available to the authorized persons for receipt of reports from whistleblowers. The universities and schools in the county fail to deliver this special requirements of high importance for the whistleblowing process.

Universities should provide enabling environment for reporting corruption.

Another issue, related to gaining trust and encouraging potential whistleblowers is transparency. We recommend that all the necessary information regarding the procedure how to file a report for protected internal whistleblowing should be attached on the web site of the university / school. Moreover, these documents should be published on a visible space, easily accessible and should not require lots of clicks to read the files. Ss. Cyril and Methodius University and St. Kliment Ohridski University have implemented this recommendation.

Additionally, universities should put a stronger focus on the improvement of distribution of information among their employees in particular in reference to corruption prevention.

Capacities of students and student organizations should be further strengthened.

Students, their bodies and organizations are extremely important partner of the anticorruption agenda. Unfortunately, students are the most vulnerable group to corruptive behavior and pressure in the higher education. Hence, building capacities of student bodies and organizations to monitor implementation of university anticorruption policy is particularly important. A key prerequisite for strengthening the role of

students and student organization represents the organization of transparent elections for their representative bodies. The democratic process would further improve the role of students, visibility and impact at the universities.

Additionally, the academic community should raise awareness about the benefits from whistleblowing in the fight against corruption in the higher education. It is especially important to educate students about the protection offered by this act. Finally, the universities and schools should intensify the cooperation with Student ombudsman and any other relevant student organization or organization working with student population in order to raise student awareness about corruption prevention.

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1.01 Original Scientific Article

The Practice of Predatory Publishing in the Academic Community in Macedonia

Sami MEHMETI⁹

ABSTRACT

As part of the career development process in academia, researchers must present evidence that their work has achieved international recognition. There is a possibility that thousands of academics pay to submit papers at conferences or journals of dubious value because of the huge demand to publish and share their work at an 'international' forum. The harmful consequences of predatory publishing on the academic community are enormous. This rapid rise of predatory journals and conferences will not only damage science, but also swindle academics, especially junior researchers who are particularly vulnerable to this predatory practice. By filling the academe with sham journals, these predatory publications and conferences make finding genuine research harder and scholars struggle to separate good research from the junk. Over time, junk science published in predatory publications will outnumber the volume of good quality, peer-reviewed research.

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Universities have not done enough to raise awareness of this issue and in the future they should thoroughly scrutinize publications of academic staff when they are hired and go up for promotion.

Key words: *Research, journals, conferences, predatory, junk science.*

INTRODUCTION: THE OPEN ACCESS MOVEMENT

Everybody concurs that scientific research is essential to a state's health, well-being, and security. The last few years have seen enormous growth in the output of research findings and conclusions. Scientific journal publishing has grown to the point of a new paper being published every 20 seconds (Bowman, 2014). The number of journals and conferences has multiplied in recent years as scientific publishing has moved from a traditional business model of subscription-based publishing to open access, which depends on authors or their sponsors to pay for the publication of papers online, where anyone can read them (Kolata, 2013).

Open Access (OA) appeared in the early 1990s, prompted by the possibilities provided by the web, but also to some extent as a response to increasing subscription costs that libraries cannot afford with limited budgets.¹⁰ According to Budapest Open Access Initiative Declaration OA is the result of the convergence of the old tradition of the willingness of scientists and scholars to publish the fruits of their research in scholarly journals without payment, for the sake of inquiry and knowledge and the new technology of internet. The aim of this initiative is to remove access barriers to peer-reviewed journal literature which “will accelerate research, enrich education, share the learning of the rich with the poor and the poor with the rich, make this literature as useful as it can be, and

¹⁰ Subscription prices, have been continuously rising faster than the rate of inflation. From 1978 to 2001, libraries at the University of California at Los Angeles, for example, saw their subscription costs alone climb by 1,300 percent (Bauerlein, 2010).

lay the foundation for uniting humanity in a common intellectual conversation and quest for knowledge.”¹¹

An interesting argumentation for making scientific research freely available is that if a research is funded by government grants (taxes), the citizens who pay those taxes have a right to the fruits of that labor (Berbusse, 2012). The second argument in support of OA focuses on increasing citations, which are significant to both authors and publications. Many authors think that their paper will be more frequently cited by other scholars if it is published in OA version, instead of being available only to subscribers of a particular journal.

Reputable OA publishers have enabled free access to their content of top quality to students, scholars, and professionals in developing countries for successive years (Gutierrez, 2015). The Directory of Open Access Journals (DOAJ) was founded in 2003 and, in 2016 included 9708 journals and 1 595 160 articles. The aim of the DOAJ is ‘to increase the visibility and ease of use of OA scientific and scholarly journals, thereby promoting their increased usage and impact’. (Bowman, 2014).

While the aspiration of OA journals is a lofty concept that was supposed to bring about a revolution in scholarly publishing by making research freely available to anyone online, it has abruptly turned into a quagmire (Bartholomew, 2014). Critics of certain models of OA (such as Nelson, 2015) find that it has too great of a negative effect on scholarly communication where it makes possible to low-quality journals with little or no quality control to exploit of the keenness of researchers to increase their publications.

¹¹ “By “open access” to this literature, we mean its free availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. The only constraint on reproduction and distribution, and the only role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited.” Budapest Open Access Initiative Declaration; <http://www.budapestopenaccessinitiative.org/read>

PREDATORY PUBLISHERS AND BEALL'S LIST

In 2008, Jeffrey Beall, an academic librarian and a researcher at the University of Colorado in Denver, became aware of a growing flow of messages from new journals asking him to submit papers or join their editorial boards. He started to browse the journals' websites, and was soon convinced that the majority of the journals and their publishers were not what they declared (Butler, 2013). The names often appeared imposing — adjectives such as 'world', 'global' and 'international' were frequent — but some sites looked amateurish or gave little details about the organization behind them. Based on his finding, Beall began a blog, "Scholarly Open Access: A Critical Analysis of Scholarly Open-Access Publishing," which contained a blacklist of what he called "potential, possible, or probable" predatory OA publishers and journals. (Nelson, 2012). This list has greatly increased since its creation and has become an essential tool for librarians and researchers. His list has even been featured in *The New York Times*. He had been the target of malicious online criticisms, and subject of an online campaign to create the false perception that he was extorting fees from publishers to reassess their status on his list (Butler, 2013). In January, 2017 Beall had to take down his blog and list due to threats for defamation lawsuits from several publishers (Gillis, 2018).

"Predatory" is an expression that has become more popular in the literature because of Beall's work. Predatory journals are fake or fraud journals that send phishing emails providing "open access" publication in exchange for payment, with poor peer review or without any peer review at all (Clark, 2015). They have been denigrated by the scientific community, and since they are not indexed in well-known databases and any research published in them is practically lost. Their intention is financial profit, and their method of working is the abuse of the business model of legitimate open access publishing. The author-pays format is changing scientific publishing because authors, rather than libraries or other subscribers, become the publishers' clients, a system that creates an inherent conflict of interest. The more papers a publisher accepts, the more income it earns (Bowman, 2014).

According to Beall, 2012 was essentially the year of the predatory publishing; that was when they truly exploded (Beall, 2013). By April 2013, there were more than 300 such journals on Beall's "black list," and he estimated the actual number of predatory journals to be closer to

4000—at least 25% of all OA journals (Nahai, 2015). A recent survey found that predatory journals have quickly increased their publication quantities from 53,000 in 2010 to an estimated 420,000 articles in 2014, published by about 8,000 predatory journals. Authors paid an average fee of \$178 per article to publish in these journals, with Asia and Africa contributing three quarters of authors (Pai, 2016).

Without a doubt, Beall has accumulated vast knowledge and greatly improved awareness of predatory publishing. However, Beall is not without critics. Walt Crawford in his article called “Ethics and Access 1: The Sad Case of Jeffrey Beall” attacks Beall for not contextualizing predatory publishing as a phenomenon that had existed before the appearance of OA and is not unique to OA journals. Beall identifies OA journals with “author pays” journals, and shows his distrust, if not hostility, about OA (Crawford, 2014). Other critics, such as Berger and Cirasella, who consider the usefulness and shortcomings of Beall’s list of “potential, possible or probable” publishers, find that Beall often fails to notice the fact that even reputable academic journals in established publishing companies have occasionally published papers that are flawed or questionable. They consider Beall to be Eurocentric by supporting Western publishers, and that he has an inclination toward the big publishing house Elsevier, praising its regular high quality (Monica, 2015). Another problematic aspect of Beall’s work is his assessment of OA publishers from the developing countries. Crawford, Karen Coyle, and Jill Emery have observed Beall’s prejudice against these publishers. ‘Imperfect English or a predominantly non-Western editorial board does not make a journal predatory’ (Nelson, 2015). Bjork and Solomon noted that in medicine and science, OA journals have about as many citations as subscription journals. (Bowman, 2014). While the configuration of Beall’s list may leave space for some criticism, his list, remains the most reliable collection of predatory publishers and journals available.

BOHANNON’S EXPERIMENT

John Bohannon, a scientist who writes for Science decided to try an experiment to evaluate the scope of the disturbing trend of OA journals. Between January and August 2013, he submitted a fabricated study praising the benefits of a new wonder drug, under the name of an imaginary African researcher working at a fictitious institute in Eritrea. He noted that ‘any researcher with more than a high school knowledge

of chemistry and the ability to understand a basic data plot should have spotted the paper's shortcomings immediately' (Bohannon, 2013). He said the experiments were 'so hopelessly flawed' as to be meaningless. He selected OA journals without including subscription-based journals into the study. He wanted to test whether the article would pass what some assume to be a careless peer-review process which is attributable for many OA journals (Xia, 2014).

Acceptance was the norm, not the exception. The article was accepted even by journals owned by publishing giants Sage and Elsevier. The paper was accepted by journals published by reputable academic institutions such as Kobe University in Japan. It was accepted by journals published by scholarly society. It was even accepted by journals for which the article's subject matter was entirely unsuitable (Bohannon, 2013). Some OA journals that have been attacked for substandard quality control conducted the most exhaustive peer review of all. At the time of publication of his study in *Science*, Bohannon's flawed paper had been accepted 157 times and rejected 98 times. An extraordinary 82 per cent of the journals from the Beall's list accepted the paper (Pai, 2016).

Through detecting the Internet protocol (IP) addresses of journal editors and the location of their bank accounts, Bohannon found that many of the journals that accepted his sham paper were based in developing countries, particularly India (Bohannon, 2013). Four major geographical locations of "predatory" publishers were found in India, Nigeria, the U.S., and the U.K. A widespread practice has appeared in which many predatory publications are managed in India with affiliates in the U.S. and the U.K.

IDENTIFICATION OF PREDATORY JOURNALS

Whereas many predatory publications would be effortlessly identified as such by most in their corresponding professions, some are quite sophisticated and run websites that mimic well known mainstream journals. Even respected scientists have been deceived into becoming member of the editorial boards of predatory journals, or submitting papers, only to become aware of their mistake after finding out irregularities and being asked to pay exorbitant publication fees (Bartholomew, 2014). Unfortunately, there is no objective method to assess or determine whether a publisher is predatory. 'Intent is what distinguishes a legitimate publisher from an illegitimate one, and intent

is not something that can be outwardly measured' (Beall, 2014). Each journal should be assessed on a case-by-case basis by the members of the academic staff. Some criteria should serve as a starting point, and the senior members of the academic staff would be in the end responsible for making a decision. There is no single criterion that implies high or low quality (Beaubien, 2014).

To differentiate genuine from predatory journals (Clark, 2015) gives some useful guides: 1. Is the journal or publisher listed in Beall's "blacklist"? 2. If claiming to be an open access journal, is the journal in the Directory of Open Access Journals (DOAJ)? This is a sort of "whitelist". 3. Is the publisher a member of recognized professional organizations that commit to best practices in publishing; 4. Is the journal indexed? This should be verified by searching for the journal in databases such as Web of Science or PubMedCentral. 5. Is the journal transparent and following best practices when it comes to editorial and peer review processes, governance, and ownership?

These are some attributes of a predatory journal:

- Predatory journals send phishing/spam emails to researchers asking them to submit papers or to join editorial boards. They create huge lists of the people they want to target, scholars who have previously successfully published research (Beaubien, 2014).
- Predatory journals use email accounts that don't look professional and official. They frequently use Gmail, Hotmail or Yahoo address as email addresses; others only provide a web form that must be filled out for any inquiries, with no email information provided. They use too much flattery when writing emails: *"We are writing to you because you are one of the leading experts in the field of..."* (Ruben, 2016).
- Widespread practices among predatory publishers include imitating the look and feel of well known publishers' websites in an effort to deceive prospective authors. The names of the publishers are formed to sound and seem like the names of established publishers and begin with phrases such as "International Journal of...". Deception takes place when geographical terms are incorrectly given to journals; for example, a title that begins with "American Journal of..." that is published in India tries to identify itself with America, expecting

that some of the legitimacy of more reputable journals will be transmitted on it (Beall, 2014).

- Predatory publishers may set down an editorial board for a specific journal but never consult it. They may announce as members of an editorial board scholars who have never agreed to serve or they may conceal the names of editors or editorial board members (Beall, 2014).
- The business address of the publisher is not verifiable. Some publishers from developing countries give false account of the addresses of their headquarters or subsidiary offices. Some will declare to be headquartered in New York when they are actually from India (Beall, 2014).
- There's little evidence of peer review. All submitted papers are usually accepted after a science-free, zero peer review process. A very short response time is a conclusive proof of low quality and of a possible predatory journal (Pai, 2013)
- Some publishers do not publicly disclose the author fees at all, but after submitted papers are accepted, they notify the authors that a sum must be paid before the article can be published. Some publishers deceive and state that their content is indexed in databases that are not true indexing services (Van Teijlingen, 2014).
- Sometimes publishers have journals that start publishing with a volume number higher than one (Beall, 2014).
- Frequently, readers may notice many spelling mistakes and/or poor writing style on the websites of predatory publishers. For example, one publisher's page has a link that proclaims, "Call for paper," instead of the standard phrase, "Call for papers". Many times an 's' is missing (e.g. Child Right Organization; "The Workshop welcomes paper presentation from any...") or sentences are clearly poorly written (e.g. "What is evidence is there of climate change?"). Many of these publishers use online translators when formulating announcements (Beall, 2014).
- In certain payment methods requested by the predatory publishers, such as Western Union, it is impossible to track who the recipient is. Payment through bank transfers to personal accounts also give rise to suspicion. If those accounts are based in known hotspots of fraud business, then the journal is almost certainly predatory (Moital, 2014).

The list should be used in as a whole and if the majority of the practices described in this list are noticeable, the scholar should truly question his/her intent to publish in a particular journal.

IDENTIFICATION OF PREDATORY CONFERENCES

Scientific conferences serve as the impetus for intellectual communication among scholars; they help researchers to put forward solutions to daily problems and stimulate new clues for scientific inquiry. There's a broad category of scholars who might not see the distinction between a legitimate conference and a fake one; scholars who might think it's interesting to appear at conferences they don't recognize, organized by societies they haven't heard of; and who may think that paying to give a speech or to receive an award is an incentive for one's career (Ruben, 2016).

Some signs mentioned above for predatory journals such as the use spam emails, copying the website style of legitimate publishers, zero peer review process, language mistakes and payment abuses are the same for predatory conferences. Here is a list of additional signs of a predatory conference:

- The invitation email may mention a (non-existent) previous correspondence so as to capture his/her attention. For example, one email stated "The following invitation letter was sent to you since [date], we haven't heard your response since then" while two other emails started by writing "We thank you for your interest to" and "Thanks for indicating your interest to be part of the [event]" (Moital, 2014).
- Predatory conferences tend to be badly managed. The organizers are not academics, but anonymous names. Numerous areas and disciplines are included at the same location, same dates or same conference. A predatory conference organizer may also invite speakers from unrelated spheres. The event may contain strange or trivial themes and it involves few or no conference staff on the venue. Titles such as "International Conference of Social Sciences" or "International Conference on Business and Economics" may be too general and they possibly cast doubts about the aim of the conference. The organizer is not interested in the content quality but rather in getting money from the conference participants (Sabnis, 2018).

- Very often, an invited speaker is requested to pay a registration fee. On occasions, the speaker was afterwards informed that the conference had been canceled for various reasons, but those registration fees just could not be reimbursed. An organizer who commonly refers to the urgency of collecting the fee to secure a place in the conference should be treated with distrust (Gutierrez, 2015)
- Few predatory conferences mention that the participant will only pay part of the fee. One distinctive characteristic includes the promotion of a package of two conferences but then saying that participants will only pay for the second one (Moital, 2014).
- Predatory conference organizers very often seize from the web the pictures and biographies of scholars who have established eminence and credibility. These names are used as baits to increase the number of participants. When the person whose identity was seized opposes this act, nothing happens (Pai, 2013).
- A strong indication that the conference may be predatory is the public link to NGOs or international organizations or agencies, most of which no one has ever heard of. The aim is to 'impress' and give a feeling of seriousness, stature and importance to the conference (Moital, 2014).
- Predatory conferences usually take place in high-profile tourist destinations. The organizers are more interested in marketing the tourist destination rather than the academic value of the conference (Nicolson, 2017). The timing could also imply a predatory conference. If the conference takes place at the peak of the tourist season, it should be treated with suspicion. Most conference organizers schedule their conferences around the middle or low season to gain from lower prices and the higher hotel capacity. The selection of specific location is likely to be a hotel run by a popular chain or a famous conference center, but there are also cases of fake locations such as the 'International Convention & Exhibition Centre (ICC), London' (Moital, 2014). An indication of a predatory conference is the sudden and unexpected change of venue as the conference date approaches. On the other hand, conferences organized in Africa and Asia have been notorious to book university classrooms and halls to give their event validity. It is not uncommon to see conferences organized on different floors of the same venue on

the same day, in order to save money on location hire (Nobes, 2017).

- It is not unusual for a conference to be publicized as the nth conference, but there is no evidence of previous ones. For example, the '6th International Climate Change Conference' was advertised but no previous conferences could be found. Some recent cases involve copying of names of existing academic conferences (Moital, 2014).
- Some predatory conferences tend to overpromise by highlighting the number and quality of participants and confirmed speakers. The program of activities is usually vague. Some predatory conferences involve reputable speakers in the program, but they are incorporated without their knowledge and consent (Moital, 2014).

PREDATORY PUBLISHING IN MACEDONIA

The state of scientific publishing in Macedonia can also help expound why so many scholars prefer easy-to-publish OA journals. As part of the promotion process in academia, scholars must present evidence that their work has achieved international character (Law on Higher education, 2018). Research activity in Macedonia is the prime requirement for advancement in academia and other scientific institutions. Every university and research institution demand from their staff to publish a mandatory minimum of their papers in international journals as a precondition of career advancement. International visibility is regarded as essential in order to help strengthen the reputation of both the scholar and his institution. With the country's continuing economic and political uncertainty, the standards of scientific performance have markedly declined.

Universities frequently use the number of publications to an individual's recognition as the standard of competency. The phrase "Publish or perish" even in Macedonia is now becoming a painful reality. Scholars are under pressure to publish. This insistence to increase the quantity of publications has led to dishonest practices and useless research. The growing number of scientific papers has increased the demand for new journals. The present academic assessment system, in which scholars are rewarded for the quantity of their achievements and not the quality, results in an accelerating trend called 'fast-food

scholarship' (Truth, 2012) At this point, quality gives way to quantity. But more isn't better.

Some scholars may willingly use predatory publications to pad their CV, basically serving as a vanity press in order to obtain employment and promotions. 'A 21st century paradox is that while it is ever more difficult to get published in a top-tier journal, it is now easier than ever to get published' (Truth, 2012). Young researchers and doctoral students are considered to be the major victims of predatory journals, a situation accelerated by an increasing mounting for them to "publish or perish". They are eager to increase their publication list and become acknowledged by the academic community and are therefore tempted by 'pay big, publish fast' model that these OA journals offer. Also, politically-motivated faculty have lamented the continuous participation of profit-oriented publishers in the scholarly publishing industry, additionally enabling the filling up of universities with people with fraudulent scientific credentials.

Predatory journals and papers published within them, have actually fulfilled employment and promotion requirements at some universities in Macedonia. Those who are members of promotion committees at universities in many cases may not be aware that a journal listed on research files is predatory. Faculties need experienced professionals in a field to assess candidates for employment and promotion whose research portfolio has fully inflated (Bauerlein, 2010) If scholars would have restricted themselves to fewer original and qualitative papers a year, reviewers and promotion committees might be able to read the papers, and not just count them.

CONCLUSION

The scientific publishing industry has seen the emergence of countless scholarly, open-access publishers, an innovation that has made hundreds of thousands and even millions of scientific papers available online. The Open Access movement was seen as a departure from the traditional subscription-based scientific publishing to a new realm where papers could be available freely over the Internet subject to almost no restrictions, bringing the world of science to a wider audience. Jeffrey Beall, a librarian famous for creating the term 'predatory publishers', has drawn up a list of predatory publishers and written extensively on the topic. His study is widely quoted, and, sometimes,

criticized by firm advocates of open access and by those publishers that he considers as predatory.

Predatory publishers unfairly benefit from the author-pays model of open-access publishing. Functioning basically as vanity presses, these publishers usually have a low paper acceptance threshold, with a non-existent peer review process. Contrary to reputable and established publishers, whether subscription-based or legitimate open access, these predatory publishers do not add much value to academic research. Young scholars from developing countries are considered to be the major casualties of predatory publishing, a problem accelerated by a mounting pressure for them to “publish or perish”. They are eager to increase their publication list and become recognized by the academic community and they are therefore easily enticed by the ‘pay big, publish fast’ model that these OA journals offer.

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1.01 Original Scientific Article

Everybody Does It: Youth Acceptance and Ignorance of Corruption

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ABSTRACT

In 2018, the corruption assessment report, based on the findings of the SELDI corruption monitoring system (CMS), which provides an overview of the dynamics of corruption in Macedonia, showed that, 69% of young people would readily give a bribe to get a job done (Nuredinovska et al, 2018). Nevertheless, it is possible, through the education system to dislodge the widespread acceptance of corruption as a fact of life. The transition of young people through secondary education should be a process that equips them with skills to face new challenges that appear in higher education and adult life. Secondary school students will soon, as adults, become immersed in a broader set of daily interactions with institutions. Promoting integrity among young people is critical to building a better future, and is also a way to change society from bottom up. Through an analysis of young people's opinions and knowledge about corruption, this paper will offer a look into what has been done so far in anti-corruption education of young people in Macedonia and will explore the possibilities of introducing corruption in the school curriculum and in non-formal education.

Key words: *acceptance, corruption, secondary education, curricula, political culture*

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INTRODUCTION

In 2018, the Corruption Assessment Report (**Nuredinovska et al, 2018**), based on the findings of the SELDI Corruption Monitoring System (CMS),² which provides an overview of the dynamics of corruption in Macedonia showed that, 69% of **young people would readily give a bribe to get a job done.**

In light of these findings, and the importance of the reform process of Macedonia, both on institutional level and political culture, it is essential to understand the reasons behind the high level of acceptance of corrupt practices among the youth in Macedonia. Although there are many factors that contribute to the acceptance of corruption as the norm, **this paper will mainly focus on how the high level of acceptance among young people can be influenced through anti-corruption education and integrity building.** First, it seeks to explain the broader context which enables young people to accept corruption as the norm. Secondly, through an analysis of young people's opinions and knowledge about corruption, this paper will offer a look into what has been done so far in anti-corruption education of young people and third, the article will explore the possibilities of introducing corruption in the school curriculum and non-formal education.

This paper draws from secondary sources, as well as from the analysis of the qualitative data from three focus groups with secondary school students aged from 17-18 (a total of 24 young people), from both public and private secondary schools, with care taken to ensure equal gender representation. The paper also draws on three interviews with stakeholders from the Bureau for Development of Education (BDE), the State Commission for Prevention of Corruption (SCPC), and a representative of one of the largest youth organizations in Macedonia, the Youth Educational Forum.

THE LONG LIFE OF CORRUPTION

“According to MP Ignjat Stefanovic, people from the ranks of “cafe benches, borough cops and idlers” were still chosen for the mayors of municipalities, as illustrated by the example of the Turkish municipality of

² Southeast Europe Leadership for Development and Integrity (SELDI), <http://seldi.net/about-us/>.

Dragovo. There were gendarmerie, colonists and sergeants appointed in rural municipalities, and major misuse was recorded in the operation of the municipal electric power stations. Corruption was spread from the chief to the last archivist: if someone wanted to get a passport faster, documents for sale, register a company or get permission to plant tobacco, he had to give something for the clerk next to regular taxes. For a repairman degree, for example, they had to pay 2,000 dinars, 500 dinars for the registration and 1,000 dinars bribe.” (as cited in Jovanovikj, 2013).

This is the situation that was present in the beginning of the 1900s during the Yugoslav royal authority in southern Serbia, which consists of Kosovo and Vardar Macedonia.

Almost a century later, Macedonia gained its independence from Yugoslavia, where it was a federal republic, and became a sovereign parliamentary democracy. On September 8, 1991, over 95.5% of the 75.8% turnout voters on the Referendum voted for the independence of the Republic Macedonia. With the idea of democracy in mind, the new country was set to change its ways, basing its future on a set of democratic values. Today, more than twenty years later, we can still argue that the country has not managed building impartial institutions that work with the principle of universalism in mind. Democratic transition, has been an awfully difficult process, successful in certain spheres, but much less in the social transformation sphere. However, one must understand that social transformation in transitional societies is a strenuous task that requires much effort.

The long life of corruption as a common practice in the Balkans is often tied to the historical past of the Balkan region. According to Mungiu-Pippidi, ‘possible causes invoked include pre-communist cultural factors (Ottoman particularism), authoritarian legacy determinants (mostly communist, by creating special privileged groups on one hand and general scarcity of resources on the other), but also current conjectures, such as the state’s break-down after communism and the large spoils available through privatization’ (2005). The last, closely tied with the transition from one to another political and economic system, making the country especially vulnerable to corruption in many areas, including the education system which had to face decentralization, lack of knowledge on how to tackle corruption in the education system, hardship in finding an adequate model of funding and **weakening of moral and ethical norms the education process** (Zivkovic, 2016).

The transition of the education system, especially in the context of the weakening of the moral and ethical norms, is closely linked to the relationship between ethics in education and ethical education. As Hallak and Poisson put it, in a corrupt environment education cannot successfully promote ethical values and behaviours. In other words, to create a favourable environment for the teaching of ethics and values, it is critical to ensure integrity and limit unethical behaviour within the educational sector (2007).

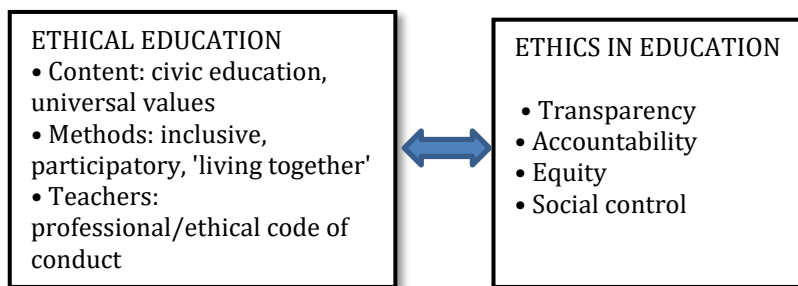


Figure 1. Ethical education/ethics in education

Source: Hallak & Poisson, 2007

Having the above in mind, the journey of Macedonia towards functional democracy is an unfinished story. In 2018, the acceptance rate of corruption in Macedonia was 50%, which has increased for three percentage points in comparison to 2016 (47%) (Nuredinovska et al, 2018). This index reflects the extent to which the corrupt practices or corruption are tolerated within the value system of society. The present state of affairs is a very good example of R. Dahrendorf's predictions: although the state has formally reformed its institutions (including its education system), the state is still far away from the desired end of a functional democracy.

Indeed, many people accept the maxim 'whatever works', thus contributing to the continuation of a political culture in which corruption is a common occurrence, and integrity the exception.

YOUTH PERCEPTION OF CORRUPTION

However, what is more concern is the greater tolerance or acceptability of corruption by the young people at the age between 18 and 29 compared to the other age groups. For 64.2% of the young people at the age between 18 and 29 it is unacceptable to give money in order to solve some problem, which is high 9.6% percentage points less than the average unacceptability by the other population (73.8%) (Nuredinovska et al, 2018).

In order to gain systematic knowledge of youth perception of corruption, it is important to assess what young people know about corruption as a phenomenon, the reasons behind the high level of tolerance, their knowledge of anti-corruption tools and their sources of information about corruption. With that intent three focus groups were conducted with secondary school students aged from 17-18 (a total of 24 young people), from both public and private secondary schools, with care taken to ensure equal gender representation.

When asked what corruption means, most of the young people interviewed **believe that money is involved**, and they associate corruption with the vague idea of involving '**something illegal**'. Common answers are: corruption is life in Macedonia; bribery and corruption, I heard about it on TV; paying someone to achieve something, corruption is taking money, like faculty professors, police take it; corruption is taking something we need in an illegal way.

All the young people who participated in the focus groups equate corruption with life in Macedonia. They all believe that the only way to succeed in their home country is to get involved in corruption: **success is not based on knowledge and expertise, as most of them would wish, but on social status, in terms both of financial resources and of connections**. Most strikingly, only a few of the interviewees answered that they would hesitate to give a bribe, and even those few stated that they would engage in corruption when their personal interest was at stake. They stress this with statements such as '**If you can't beat them, join them**'. As one interviewee elaborated, 'Corruption is a phenomenon present in a **systematic way**, which is so widespread that it is **impossible not to engage in it**. I would definitely want to avoid it, but there can be points **where it is impossible to do so**.'

Social media was cited as their main **source of information about corruption**. They also rely on traditional media, but mainly around the

election period and when the news focuses on corruption scandals. Another source of information about corruption for respondents is friends and family. As a senior year student said, 'We firstly come into contact with the concept of corruption in our communities. My older friends say *"you should give xx amount of money so you can get employed"*. This is the first time I got an idea on what corruption is.'

Moreover, what contributes to the above mentioned "inequality trap" is the lack of knowledge on corruption as phenomenon, but also practical knowledge. Previous research has shown that the ability to recognize corruption is low in Macedonia. An estimated 174,000 citizens of Macedonia (11% from the survey) have low level of ability to recognize corruption, while 442,000 (28%) have moderate ability. The research also shows that the ability to recognize corruption is associated with education and income level. Those who are less educated or have lower income are usually less able to recognize corruption.

Most of the focus group participants are not aware of existing anti-corruption tools, and **their usual answer to the question of where they can report corruption is the police**. None of the interviewees knew how the reporting system works in different state institutions. Moreover, none of the focus group participants were aware of the existence of the State Commission for Prevention of Corruption (SCPC), which, according to the Law on Prevention of Corruption, was established with the authority to implement measures and activities for preventing corruption.³ The SCPC is also one of the main institutions where citizens can report corruption.

The interviewees also stated that **they have rarely come across the term corruption in school subjects, and that they feel unprepared for confronting corruption**. They think that the topic of corruption and anti-corruption measures should most certainly be part of the curriculum, 'starting from elementary schools, so that the new generations can learn about values and form their personality in time'. Moreover, we have to understand anti-corruption education is not just about integrity building, but also a way to equip young people with

³ There is mixed awareness among citizens about the SCPC: 68.1% have heard about its existence, but more than half (57.1%) do not know anything about its work. Only 4.5% of citizens know everything about it, while 37.7% know about some of its work. See: <http://www.mcms.org.mk/images/docs/2017/summary-of-the-oversight-of-the-work-of-scpc-quart-1.pdf>.

practical skills on how to use the already established anti-corruption mechanisms in Macedonia.

As long as people, in particular the new generation, perceive corruption as a common practice, they will not change their ways. The fear of acting alone, without any influence on the current state of corruption, will impede people to take action and demand responsibility. The idea is to create a critical mass that will challenge the current state of affairs (Bandura 1997; 1999). It is possible, **through education**, to shift the idea that corruption is essential to get things done, and to dislodge the widespread acceptance of corruption as a fact of life. Promoting integrity among young people is critical to building a better future, and is also a way to change society from bottom up. Indeed, as the anti-corruption NGO Transparency International states, 'From Chile to Morocco to Thailand, many of **Transparency International's chapters** have proven that developing wide-ranging programmes that **integrate anti-corruption initiatives in school curricula** and classroom activities are **vital to ending corruption** in education' (Transparency International Secretariat, 2013). In assessing the way forward, Transparency International's *Global Corruption Report: Education* highlights new approaches to arresting corruption in education and through education. The 442-page book is broken into five sections of analysis and recommendations from over 70 experts in more than 50 countries, including **the role of education in strengthening personal and professional integrity**.

However, while there are many so called solutions towards a mechanism for better control of corruption, eventually the solution has to come from the country itself. For different types of mechanism to function, countries should not only mimic the mechanism of other countries, which, actually, might have been successful, but about customizing them to the specifics of the society. Developing countries, such as Macedonia, often treat corruption as a deviation, and not as the norm. This is contrary to what public opinion polls show. The acceptance rate of corruption in Macedonia confirms that the society considers corruption as a normal practice, thus the state should also invest in **the much needed norm-building instruments, rather than heavily focus on norm-enforcing instruments** (Mungiu-Pippidi, 2018).

WHAT HAS BEEN DONE AND WHY THE PROCESS HAS STALLED

The real question is what kind of norm-building instruments we can use. Although, corruption is a matter of concern in various sectors, education is a unique one, as it is central in preventing corruption. Even the most rigorous laws, systems and practises will not be enough to prevent corruption unless citizens actively demand accountability from government and public institutions. Thus, citizens' attitudes are essential in building a responsive public administration. As, Hallak and Poisson put it, fostering attitudes that do not tolerate corruption should therefore be one of the priority tasks of education (2007). Indeed, ethics education for pupils and young people can help break the cycle of corruption, as today's youth are the potential leaders of tomorrow. This concern should not be overlooked and cannot be avoided in the design of comprehensive strategies to combat corruption (Hallak & Poisson, 2007). As long as we do not educate young people to treat corruption as an anomaly, and not as a normal occurrence, a repairman's degree, will cost 2,000 dinars, in the present day as well.

In order make most use of the existing mechanisms, laws and institutions we have to examine the main features of the specialised anti-corruption bodies, like the State Commission for Prevention of Corruption (SCPC). According to international standards and practices (OECD, 2008) the main anti-corruption functions of these bodies are **investigation and prosecution; prevention; education and awareness raising; coordination; and monitoring and research.** Prevention as a function is reflected in the following anti-corruption tasks: provide public information and education. In addition, according to international standards the above mentioned tasks can be assigned to one or more specialised institutions. In this case, prosecution function of state bodies, can also be used as an education tool, as long as it can be demonstrated that corruption does not pay off.

In its 2011-2015 State Programme for Prevention and Repression of Corruption and Reduction of Conflict of Interest (State Commission for Prevention of Corruption, 2011), the SCPC declared for the first time that the area of education was crucial for the prevention of corruption. The SCPC elaborated that the introduction of education and sports as a separate sector was urgent. It stressed that targeted measures were necessary to prevent any exacerbation of the risks of corruption in areas,

which are 'particularly important for the youth and development of a healthy population in general'.

This newly introduced *Section for Education and Sports* identified the low level of public awareness about **the need to report and fight corruption in the areas of education and sports**, and introduced several activities and measures, including educational content about combating corruption and conflict of interest in the curriculum at all levels of education. **As part of its commitments stated in this programme**, the SCPC implemented a project called 'Anti-corruption education of primary school students', an extracurricular activity that formed part of the Civic Education school subject. This project was implemented in cooperation with the Bureau for Development of Education (BDE) and the Ministry of Education and Science (MES). The starting-point of the project 'Anti-corruption education of primary school pupils' involved evaluation questionnaires which showed that **only 65% of primary school pupils before the extracurricular activity were able to give a definition of corruption, which increased to 93% after the activity (Georgiev, 2013)**. The improvement shows the potential of education about corruption, either as a regular extracurricular activity or incorporated into the formal school curriculum, as part of the subject of Civic Education.

When the project ended in 2014, the SCPC, in its *State Programme for Prevention and Repression of Corruption and Reduction of Conflict of Interest (2016-2019)*, issued a proclamation that it would continue in 2015 (State Commission for Prevention of Corruption, 2016). It also stressed that it is 'important to improve the informedness of the need and possibilities to promote good governance and integrity as integral parts of the fight against corruption, thus educational content should be designed and introduced in the education system'. It claimed that, in light of the project's positive effects, this educational programme should be continued and expanded in the primary and secondary education system by introducing anti-corruption content in the curriculum.

Despite the SCPC's statements of willingness to continue implementing the project, it has fallen short in fulfilling this commitment.

When interviewed, one of the developers of the content of the extracurricular activities stated that the readiness of pupils and teachers to cooperate with the institutions and to commit to the project for anti-corruption education was at a satisfactory level. He also stressed the

necessity for further development of the programme, and said that he did not know why the efforts at further development had stopped (Interview 1).

Moreover, in its Annual Report of 2016, the SCPC confirmed that it has the approval of the Ministry of Education and Science (MES) to continue implementing a similar project, involving extracurricular activities with secondary school students (State Commission for Prevention of Corruption, 2016). However, since finalization of the previous project, the SCPC had only held one meeting with representatives from MES, and had not taken any further steps to put into practice its promise in the *State Programme (2016-2019)* to implement a pilot project with secondary school students, or to initiate the incorporation of anti-corruption education into the Civic Education curriculum in primary and secondary schools.

Back in 2017, the interviewees explain that the project was halted because of the overall political climate in Macedonia, saying that much of their work has stalled because of the political crisis (Interview2). These statements strikingly suggest that the work of institutions is dependent on political elites and events, rather than the needs of citizens. Although in January, 2018, the SCPS signed a memorandum of cooperation with CSOs to work on anti-corruption education in secondary schools, the process stalled again. In March, 2018 most of the SCPS commissioners resigned amid allegations of abuse of legal provisions, unlawful and unethical spending of taxpayer money. With a dysfunctional State Commission for Prevention of Corruption, the drafting of a new law on prevention of corruption prevention and conflict of interest, any action towards including anti-corruption education in school curricula has been halted. Despite the objective obstacles, and the general climate in the country, it is important, as mentioned above, to focus on the needs of the citizens. Success in anti-corruption can only mean consolidated dominant norm of ethical universalism and public integrity (Mungiu-Pippidi, 2018).

CURRICULAR CHANGES, NON-FORMAL EDUCATION AND SOCIAL MEDIA

Despite the objective obstacles mentioned above, we need to stress the necessity for anti-corruption education. The results from the focus groups suggest that young people generally find information about corruption from the media. **Information from the media mostly gives**

a vague idea about what corruption is, and fails to explore the topic thoroughly or to introduce them to anti-corruption measures (Anna-Maria Getoš et al, 2011). This emphasizes the need for introducing anti-corruption education in formal education, since the information the students would receive through schools would be more objective than that presented in the media, provided it is implemented in an appropriate way.

In 2008 in Croatia, a new initiative, called the *GOOD initiative* was born. The idea behind the initiative was to advocate a systematic and quality introduction of education and training for human rights and democratic citizenship into the education system, including in its program corruption as a phenomenon (GOOD, 2015). The initiative conducted research on the knowledge and attitudes of students and young people on social and political processes and contributed to the development of national documents that define the curriculum of the Civic Education subject (GOOD, 2015).

In 2012, after a long campaign the Civic Education Draft Curriculum was presented, the draft curriculum was eventually adopted with the new curricular changes in 2015, during the curricular reform in all subjects.

In August, 2014, the Ministry of Science and Education issued a Decision on the adoption of programs of intercultural and interdisciplinary content of Civic education (GOO) for primary and secondary schools (MSE, 2014). The program offered a detailed program on anti-corruption, elaborating the ethical, as well as the practical anti-corruption tools (Official Gazette, 2014). Although the process was long and slow, following the example of Primorsko-goranska County, other counties are working towards implementing Civic Education in their schools. The Government 2017/2018 Action Plan, based on the Anti-corruption Strategy (2015-2020), included the Civic Education curricula as one of its goals.

Given the high tolerance of corruption among young people in Macedonia, it is, as the SCPC has identified, necessary to introduce anti-corruption education in formal education. The new government, in its 2017-2020 programme, has stated that within a year, state committees, composed of university professors and supported by the MES, will evaluate all primary and secondary school textbooks, and will set clear rules that must be respected. According to the issues identified in the focus groups, **the new curriculum should focus on introducing young**

people to what corruption is and what the consequences are. They should be taught about the diverse forms of corruption, and be introduced to the anti-corruption tools available to them as citizens of Macedonia. Youth organizations are currently not providing young people with the necessary skills when it comes to corruption. As the executive director of one of the largest youth organizations in Macedonia, the Youth Educational Forum (YES), stresses, **'not much has been done on the topic, except a few ad hoc awareness campaigns focused on university students' (Interview 3).** In this regard OECD stresses that even comprehensive institutional efforts against corruption are prone to fail without the active involvement of the civil society and the private sector (OECD, 2008).

Although awareness campaigns focusing on university students are important, and should encompass secondary school students as well, they are generally not a sufficient source of information for the youth (Kosturanova, 2013). To continue the personal and social development of young people, youth organizations should be allowed to conduct **extracurricular activities.** The proven success of the extracurricular activity 'Anti-corruption education of primary school students' further confirms the potential of this kind of project. In addition, according to several studies, young people spend most of their time on the internet, and use it as their main source of information (Topuzovska Latkovic et al). These studies also state that the most widely used media for education is the internet (77%). Bearing in mind that young people spend a large amount of their time on the internet, a new approach should be considered by the SCPC, which has already stressed the importance of media in raising awareness among citizens (SCPC, 2016). Various social media awareness and educational campaigns should be put in place, in order to reach a larger number of young people from different backgrounds. The purpose of a social media approach would be to encourage and support the active participation of young people in the process of gaining knowledge about the fight against corruption which can be applied in everyday life, as well as knowledge about corruption as a phenomenon.

It is important to stress that the transition of young people through primary and secondary education should be a process that equips them with skills to face new challenges that appear in higher education and adult life. One of the challenges they will face is corruption in its many forms. Secondary school students will soon, as adults, become immersed in a broader set of daily interactions with institutions.

Therefore, in the interests of making society less tolerant of corruption, it is crucial to equip secondary school students with the necessary knowledge about what corruption is and what anti-corruption tools are available to them. In this regard, anti-corruption education plays a critical role.

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APPENDIX

Interview 1. Dr. Igor Jurukov, Head of Research Unit, Development and Systemic Issues, BDE.

Interview 2. Vladimir Georgiev, State Commission for Prevention of Corruption, Republic of Macedonia

Interview 3. Dona Kosturanova, Executive Director of the Youth Educational Forum, Macedonia.

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1.01 Original Scientific Article

The Role of University Curricula in Corruption Prevention: The Case Study of the University of Ljubljana, Faculty of Law

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ABSTRACT

The aim of this paper is to present efforts of the Faculty of Law, University of Ljubljana in ensuring that its graduates, as well as foreign students visiting the Faculty, obtain the necessary knowledge and skills on working in the legal field of corruption prevention. The study program of the Faculty is organized in light of Bologna reform styled cycles. The legal anti-corruption framework is part of curricular and lately, extra-curricular activities, as discussed in the paper. The approach is compared to similar methods used by some ACAD

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Initiative members. The paper is also highlighting recent developments at the Faculty, which is currently in the process of examining feasibility of a dedicated Anti-corruption Legal Clinic. These considerations are partially based on the already successful methods employed in other legal clinics functioning at the Faculty, which have proved that they can effectively respond to current issues and equip interested students with highly valuable theoretical and practical knowledge.

Key words: *Economic Criminal Law and Public International Law, MUN simulation of the Conference of the States Parties to the UNCAC, Anti-corruption Legal Clinic, ACAD Initiative, anti-corruption extra-curricular activities*

INTRODUCTION

Recognition of damaging effects of corruption on entire society and the need to fight the phenomena have led to inclusion of relevant contents in curricula at educational institutions worldwide. Law schools are particularly well placed to provide the future generations of law graduates, traditionally occupying important positions in a society, with an understanding of the problem and means and methods to fight it. It is therefore hard to object the idea that a sound legal education today should provide individuals also with necessary theoretical knowledge on the legal framework regarding fight against corruption and skills to ensure legal obligations are being respected in practice.

The Faculty of Law, University of Ljubljana (hereinafter: Faculty) is the oldest (established in 1919 as the founding member of the University) and largest institution of higher education in the field of law in Slovenia. Its study programs are, following the Bologna reform, organized in three cycles, with the 1st cycle lasting 4 years, the 2nd cycle lasting 1 year and the 3rd cycle - doctoral studies - 4 years.³ The topic of prevention of

³ More information on the study programs are to be found at: www.pf.uni-lj.si.

corruption has been in one way or another part of Faculty's curricula for many decades, however the question of degree or intensity of teaching anti-corruption remains a matter of continuous reflection whenever reforming Faculty's programs. Currently, anti-corruption legal obligations are being discussed in the Faculty's curricula mainly by the courses of Criminal law (mandatory course in the 2nd year), Economic criminal law (elective course in the 3rd and 4th year and as an elective course during doctoral studies) and Public international law (mandatory course in the 4th year) of the 1st cycle. Nevertheless, anti-corruption legal topics are mentioned also during lectures of other courses, such as constitutional law, EU law and economic law related courses.

The aim of this paper is to present efforts at the Faculty to properly address legal dimensions of corruption and provide students with necessary theoretical knowledge as well as, to the extent possible, some practical skills that will enable them to engage in prevention of corruption in their later careers. These endeavors have so far materialized mostly through introduction of relevant topics in the curricula of both mandatory and selective courses, which is the usual method of teaching anti-corruption contents at many law schools. However, the Faculty some years ago started to engage students in discussions on anti-corruption also through extra-curricular activities, mostly through the simulation of the Conference of the States Parties (hereinafter: CoSP) to the United Nations Convention against Corruption (hereinafter: UNCAC), which constitutes a constituent part of the annual MUNLawS Conference⁴. Moreover, the Faculty is planning to establish and lead the Anti-corruption Legal Clinic, that will be offered to the most interested and motivated students and their work in the clinic recognized as equal to 4 units in the European Credit Transfer and Accumulation System (ECTS). Furthermore, the Faculty is actively engaged in organization of conferences, seminars, round-tables on the topic and is the host of the meeting of South-Eastern European Anti-Corruption Academic Initiative (ACAD) in October 2018 with the support of the Rule of Law and Anti-Corruption Center in Doha. All these events provide excellent opportunities for fruitful debates among academics and professionals working on anti-corruption issues and offer fertile grounds for developing new ideas that can later find their way in the curricula of the Faculty, either through basic programs or extra-curricular activities, as appropriate.

⁴ More at www.munlaws.com.

The paper thus provides an overview of Faculty's activities addressing anti-corruption, starting with the curricular subjects, followed by current and planned extra-curricular activities, and at the end offering some conclusions that build on gathered experience and provide some insight into achieved successes and encountered challenges.

CURRICULAR PROGRAM OF THE FACULTY

As mentioned above, the two main courses addressing anti-corruption legal issues at the Faculty are the course on Economic Criminal Law and the course on Public International Law, which are presented in turn, while other courses touching upon the issue are briefly mentioned in the end. Then, the paper briefly compares the Faculty's curricular program with some selected examples of the ACAD initiative members' programs.

Economic Criminal Law

Economic Criminal Law is a 4 ECTS elective course available to the students in either the 3rd or the 4th year of the 1st cycle of studies at the Faculty. Lectures (currently given by Prof. Dr. Vid Jakulin) cover domestic legislation and international regulation of the field. The course is designed to focus on the specific topics that none of the general criminal law and economic law courses available during the first two years of legal studies could address in-depth. Corruption is by no means the only such example to be introduced during the lectures, but is without a doubt one of the main reasons that students choose this elective course, as it helps them answer questions that they have run into before, but could not get sound answers. Corruption and how to fight it, is firstly introduced in a theoretical manner. Since the course is primarily based on criminal law, criminal offences from the Criminal Code of the Republic of Slovenia are presented as an introduction. Slovenia's Criminal Code itself does not offer a definition of the corruption, a practice commonly encountered, but certain offences are treated and prosecuted as ones of corruptive nature. These are: Violation of Free Choice Belonging to Voters (Art. 151), Acceptance of Bribe at the Elections (Art. 157), Unjustified Acceptance of Gifts (Art. 241), Unjustified Giving of Gifts (Art. 242), Acceptance of Bribe (Art. 261),

Giving of Bribe (Art. 262), Acceptance of Benefits for Illegal Intermediation (Art. 263) and Giving of Gifts for Illegal Intermediation (Art. 264). In addition to these, money laundering is also covered during the lectures, because the pair is very often tightly linked together.

Added value of this particular elective course also comes from its practical orientation, providing for most qualified guest lecturers, with necessary practical experiences, such as Mr. Drago Kos, who has been a regular guest for years and is without a doubt a professional with one of the richest background in the field of anti-corruption in Slovenia and world-wide. As the first Chairman of the Commission for the Prevention of Corruption in Slovenia he paved the way for his successors and left his mark on the international scene as the Chair of the OECD Working Group on Bribery, Chairman of Group of States against Corruption, Vice Chairman of the European Healthcare Fraud and Corruption Network, Co-Chair of the OECD - MENA Business Integrity Network, assisting governments and companies in the Middle East and North Africa to enhance their corporate integrity, to name a few. Among topics discussed during guest lectures are also monitoring activities that assure compliance with the Council of Europe's anti-corruption standards and similar activities conducted under the rules of UNCAC, mobilisation of policy-makers to address the shortcomings identified in the prevention of corruption in respect of parliamentarians, judges and prosecutors, funding of political parties, a question which often arises in debates on international regulation of anti-corruption measures and corruption in sports. Particularly the last mentioned topic usually attracts students and ensures that they consequentially develop more interests for other corruption related topics. In order to engage students in a dialogue, some currently discussed issues in the media, whether they are connected with domestic politics or international scandals that students are usually aware of, are debated.

Due to the fact that the Faculty is centrally located in the capital, it is relatively easy to organize a visit to the Commission for the Prevention of Corruption in Slovenia, as a part of the curricula each year. Students always positively react to all opportunities of getting familiar with the working environment in the field that might be one of their career prospects. Even though some could claim that it is easier to just invite a guest speaker to the faculty, the final response of students and their greater commitment to the topic outweigh opinions opposing a small excursion of this kind. However it is obvious that sometimes educational institutions are not headquartered in capitals or the anti-corruption

institutions in respective countries are to be found elsewhere. It is also possible that a specific anti-corruption institution or this type of organ does not even exist, or is incorporated into other state bodies. Thus, the Faculty, unlike some other educational institutions, does not need to consider a visit to an equivalent body as an alternative and is in that respect relieved of any possible additional logistical and security related problems. Successfully organizing such a visit is also possible thanks to the fact that Economic Criminal Law is an elective course and does not have the same amount of students as, for example, the mandatory course of Criminal Law. Those willing to prepare a similar type of academic activity outside the lecture halls of respective faculties, should absolutely take this aspect into account. A lecture by a selected representative and greeting on availability basis by the Chairman of the Commission are organized on the spot and working process together with the current concerns are presented. Main Slovenian anti-corruption body underwent numerous, sometimes also politically sensitive changes, during its 14 years long existence, and is therefore a subject of great interest among students, who research its role and development in their theses. As part of the visit to the Commission for the Prevention of Corruption, employment possibilities are described. It is worthwhile observing that jobs for young graduates have been fairly limited during the past couple of years. Even unpaid internships have been very rare lately and albeit unpaid work is not something we should strive for, enabling young people to get at least some practical experience, would be beneficial.

Slovenian chapter of Transparency International is another opportunity for those interested in getting first-hand information and contribute to the fight against corruption personally. Representatives of TI are invited to the Faculty of Law to give lectures about the work of Slovenian chapter and their international efforts and later offer short-term unpaid internships. TI's Global Corruption Barometer survey is often discussed and Slovenia was ranked 34th out of 180 states where survey was conducted in 2017 and scored 61 points out of 100 on the perceived level of corruption in the public sector scale, results that certainly call for improvement (Transparency International Slovenia, 2017). Educating people about corruption and the fight against it, can also beneficially affect indexes based on perception, as for example students, who are better informed about respective state's efforts in this field, might get a more positive opinion. General awareness that corruption is harmful seems to be widespread in Slovenia, but despite

this, response seems lacklustre and people believe that not enough is being done. Another issue with perception based surveys is the way they are interpreted. Publishing of a 2013 Ernst&Young fraud survey resulted in Slovenian and some foreign media reporting that Slovenia is one of the most corrupt countries, because respondents (100 employees from large companies) when asked whether they think that bribery/corrupt practices happen widely in business in their respective country, answered yes in 96% of the cases! (Ernst&Young, 2013) This number of course does not mean that 96% of businesses are in fact corrupt, a problematic view that has to be explained and emphasized. As said, TI usually seizes this opportunity to introduce students to the employment possibilities as their team usually consists of younger staff, who is more than willing to familiarize new interns with anti-corruption related tasks.

Public International Law

Public International Law is a mandatory course in the 4th year of the 1st cycle of the law studies at the Faculty. The co-author of this paper, Associate Professor Dr. Vasilka Sancin, introduced in the teaching of the course also some of the international law aspects of the fight against corruption. During the lectures, students are informed about the responsibilities of various international organizations, such as United Nations Organization (UN), Organization for Economic Co-operation and Development (OECD), Council of Europe and selected regional bodies. Special emphasis is put on the work of the UN Office on Drugs and Crime (UNODC), namely its Corruption and Economic Crime Branch, together with international obligations laid down in the UNCAC. Based on conversations and general response of students, it seems that they are sufficiently aware of the existence of domestic legal documents dealing with corruption, contrary to the international ones, which students are less likely to encounter outside the lecture rooms. Importance of the UNCAC seems to be somewhat underestimated in Slovenia and since the course syllabus is already very dense, extra-curricular activities take over part of the task to explain its role to the students in an understandable and practical manner. This year the third annual

simulation of the CoSP to the UNCAC will take place as part of the MUNLawS 2018 Conference in October.

Other courses

Legal dimensions of fighting corruption are also addressed appropriately during the courses of criminal law, constitutional law, EU law and economic law related courses. None of them, however, go much in depth and just briefly deal with corruption related issues in direct connection with other main points of the syllabus. Although it feels unnecessary to describe these courses in detail, as they are not offering any substantial emphasis on anti-corruption, it is important to mention, that Economic Criminal Law is also one of the courses in the 3rd cycle, where doctoral students can deepen their knowledge possibly already acquired during the elective course of the Economic Criminal Law in the 1st cycle.

Selected examples of ACAD Initiative members good practices

UNODC has developed an academic course on the UNCAC, which addresses corruption from nearly all perspectives, with a well and simply designed outline and is available for downloading on the UNODC website (UNCAC Academic Course, 2014). It can undoubtedly serve as a solid pillar for those interested in offering high quality courses addressing corruption to students of e.g. law, journalism, business, politics, public affairs, international relations etc. The following academic institutions have already used it to a certain extent to support their syllabus: American University, Washington School of Law, USA, Renmin University, China, University of Athens, Greece, University of Sussex, Anti-Corruption Research Centre, United Kingdom, Washington and Lee School of Law, United States, University of Liberia, Liberia, University of Belgrade, Serbia, Universidad Santa María La Antigua of Panama in coordination with the Regional Anti-corruption Academy for Central America and the Caribbean (ARAC), to name those specifically mentioned.

It seems useful to present brief summaries of the work done by some of those academic institutions mentioned above, selected members of

the ACAD Initiative, while tracing some similarities and differences with efforts at the Faculty, where applicable.

International Anti-Corruption Academy's (IACA) founded in March 2011 is probably offering the most comprehensive anti-corruption education, as the institution dedicated solely to fighting corruption. The academy itself is not a standard academic institution as it offers only two master programs. Therefore, it does not fall in the category of typical universities that are offering bachelor and master level studies. To the contrary, these two programs usually tend to cater already more experienced practitioners. As such it is not a perfect example to compare with the institutions similar to the Faculty that are always limited to a greater extent with the general syllabus, combined with financial, organizational and logistical restraints.

At Renmin Law School, students were offered an exclusive anti-corruption master program in 2011, graduating 2 years later, under the leadership of He Jiahong, organized as one of the steps towards lowering the level of corruption in the country. Given the fact that such academic attempts were not very common in China, this one actually being the first example of dealing with corruption, it was a welcome change (Branigan, 2013). Classes held by the highest representatives of anti-corruption authorities were kept in secrecy to a large extent, and students trained this way, were supposed to be at the forefront of the fight against corruption, but certain doubts arose nevertheless. It was claimed that the curriculum "failed to address the superficial and trivial aspects of the problem, not even close to knocking the core of corruption" (Chen, 2013) It is definitely optimal that corruption is primarily addressed comprehensively on all levels and with different methods. But on the other hand, even when it is difficult to destroy the core issues, what is especially true for countries where corruption is widespread and deeply rooted in the society, then it is sufficient for the start to combat and punish it effectively first, eventually leading to overall improvements and awareness.

At the Milanese Bocconi University, ACAD's contact is renowned professor Leonardo Borlini, who focuses on corruption and money laundering at the course of International Criminal Law and promotes the subject of anti-corruption strongly in order to include it in the university's study curricula (Celauro, 2012). Even though it is optimal to have a larger group of staff supporting anti-corruption activities, it is important for the start to have just a small number of enthusiastic

professors, who engage with students that later on take over the initiative as part of some extra-curricular activities.

In 2013-2014, Department of Political Sciences of the Roma Tre University offered a master studies in Legality, Anti-Corruption and Transparency, in collaboration with the School of Interior Administration and the National Register of Municipal and Provincial Secretaries. It was divided into eight modules dedicated to the different legal profiles of the master's scope, with particular reference to the administrative, contractual and penal aspects, as well as related aspects of an economic-organizational nature (Ecco come si combatte la corruzione, 2013). Teaching methods encompassed round tables, workshops, seminars and exercises. It seems that the program did not turn out to be attractive enough, as we failed to find it in the current curricula and this is also a general observation that purely anti-corruption oriented study programs do have a limited amount of potential students.

At the University of Ilorin in Nigeria, Economic and Financial Crimes Commission (EFCC) inaugurated the Zero Tolerance for Corruption (ZTC) Club in April 2014, which was designed to share information on corrupt practices and engage the youth in the anti-corruption efforts (EFCC inaugurates Unilorin Anti-Corruption Club, 2014).

Ecole Nationale d'Administration is also cooperating with Moroccan Central Authority for the Prevention of Corruption (AL, 2014), a practice commonly encountered, and one our Faculty of Law is also conducting at least when it comes to the visits that are part of the Economic Criminal Law syllabus.

Faculty of Law, University of Belgrade cooperated with YUCOM (Lawyers' Committee for Human Rights) since year 2015 on a project "Strengthening Legal Clinics for Corruption Trial Monitoring" (Antikorupcija, 2018) that was made possible due to the success of previous project "Supporting Adequate Response of the Serbian Judiciary through Corruption Trial Monitoring" implemented with the support of Partnership for Transparency Fund (PTF) and the Open Society Institute. This way students gain an insight how such trials are led and how to improve the prosecution of corruption. YUCOM also successfully organized a study visit to Slovenia (to the Special Prosecutor for Organized Crime and Corruption, Judicial Training Centre, Commission for Prevention of Torture and Transparency International Slovenia), but this visit was prepared for judges and prosecutors, not

students (YUCOM n.d.). Despite this, it has proven that similar organizations are capable of transnational cooperation and if Anti-corruption Legal Clinic would come to life at our Faculty of Law in Ljubljana, we would certainly search for ties with those in Serbia, who already have some experience in this field.

The year of 2016 brought about two important developments: At the Beijing Normal University an anti-corruption research center was established following the G20 meeting in Hangzhou, designed to conduct special project research, academic workshops, training seminars and other forms to carry out the work (Zhang and Cao, 2016). The second one occurred in December 2016, on the occasion of the International Anti-corruption Day, when the College of law of the Qatar University organized an event featuring a moot court on a corruption case with 5 students from Science of Crimes and Penalties Program and also included a film screening, a review of Qatari model in anti-corruption, and a lecture on "Issues of Anti-Corruption in the Arab World" together with lectures highlighting security challenges and legal issues and the role of politics in anti-corruption (LAWC celebrates Anti-Corruption Day, 2016).

Copenhagen Business School cooperates with Danish Transparency International on a regular basis, organizing conferences together with stakeholders from private and public sector with professor at the Department of Intercultural Communication and Management (ICM), Hans Krause Hansen, being particularly active in this field (Avoiding Corruption, 2017).

Washington and Lee University's law professor Thomas H. Speedy Rice was a recipient of the International Anti-Corruption Excellence (ACE) Awards in 2017 and he teaches the Global Corruption and Good Governance Practicum, which engages students in problem-based learning concerning the comprehensive nature of the UNCAC and other multi-national and domestic anti-corruption instruments. His students even travelled abroad to Albania to help organize an anti-corruption conference, while some went to academic anti-corruption workshops in Ukraine (Jetton, 2017). The Transnational Law Institute Student Anti-Corruption Consortium (TLI-STACC) also runs under the auspices of professor Speedy Rice and cooperates with a similar organization in Ukraine (Advocacy Programs, and Journals, 2018). Connecting this kind of student initiatives and organizations can be extremely beneficial, but it often depends on the efforts of the academic staff, who might have acquaintances from abroad, with whom they could establish

collaborative projects. These awards can also act as an incentive for the academic staff to truly invest their efforts into promoting anti-corruption topics at their respective universities.

Washington College of Law, American University runs a U.S. & International Anti-Corruption Law Summer Program. It offers a unique peer-to-peer learning experience for government officials and private practitioners seeking to enhance their expertise, with leading experts, including present and former U.S. and foreign government prosecutors, investigators for international organizations and law firm and corporate counsel sharing their knowledge with the participants. This type of programs are of course necessary and greatly contribute to the level of expertise, but they are usually expensive and therefore less accessible. It is welcome if students get to play some part in the preparations of such courses and assist the lecturer, while gaining new information at the same time.

University of West Indies, Department of Political Sciences is offering an undergraduate course Anti-Corruption Strategies in Developing Countries.

Gerry Ferguson, University of Victoria Distinguished Professor, published a book through the UNODC portal, titled *Global Corruption: Law, Theory and Practice*, specifically created as part of the ACAD Initiative to make it easier for professors to offer a law school course on global corruption. Book is issued under a creative commons license and can be used for free in whole or in part for non-commercial purposes, somewhat rare, but absolutely welcome practice, that can help other academics pursue their scholar goals easier (Ferguson, 2018).

The Quality of Government (QoG) Institute is an independent research institute within the Department of Political Science at the University of Gothenburg. It conducts and promotes research on the causes, consequences and nature of Good Governance and the Quality of Government. This types of institute can also contribute to the anti-corruption education if their findings are actively shared with students, or if they have the opportunity to support its work either through individual research projects, or through a long-term inclusion of young researches interested in this field. Connecting master or doctoral theses with work in such institutes can be a good way of finding mutual benefits.

University of Birmingham offers a Corruption LLM. It examines the corruption as a “culturally-specific” phenomenon and concept and how it is legally regulated in a range of criminal and commercial contexts.

Focus is on UN legislation and associated programs, as well as EU and Council of Europe legal and practical provision to anti-corruption efforts, the regulation of corruption in international trade and investment law (LLM Corruption, 2018). This is a focus commonly encountered worldwide, our faculty also addresses this topics, albeit as part of different courses, but in its core it is the provisions of these organizations' documents that are vital for (European) students.

In the case of the American University in Cairo (AUC) UNODC joined a group of senior undergraduate students to raise awareness on corruption and its negative consequences. The students, inspired by UNODC's two televised media campaigns in Egypt, launched an awareness-raising campaign, named "Reject it (bribery)", as part of their graduation project, which focuses on combating corruption (On the International Anti-Corruption Day, UNODC Supports Egyptian Students to "Say No to Corruption").

Sussex Centre for the Study of Corruption (SCSC) conducts research on a wide variety of corruption-related issues, offers a range courses, and is also home to the master program in Corruption and Governance, advertised as the only full-time masters in the world analyzing issues of corruption, anti-corruption and governance (Corruption and Governance MA, 2018). In addition to it, an LLM in Corruption, Law and Governance is offered in Qatar, but unlike the regular masters in the UK, covering wide variety of global and domestic corruption issues, this one is focused on the problems encountered in the Gulf region (Corruption, Law and Governance LLM, 2018). This is yet another proof of Qatar's serious commitment in the fight against corruption, both regionally and worldwide. Qatar also has one of the lowest levels of corruption in Middle East and North African region and therefore has the required legitimacy to engage in activities targeting corruption abroad as well (GAN Integrity, 2016)

Dr. Dimitris Ziouvas joined Sussex University team in 2013, but before that he successfully supported ACAD Initiative and delivered UNCAC Academic course adapted for the specific national context at Panteion University of Athens. Response was great, with 150 students wanting to take the course, what consequentially led to a development of a Facebook group, Anti-Corruption Youth Greece. This was followed by the so called youth academy (for those under the age of 40), which eventually reached 1,300 members (Bealing, 2017). Success of his work was connected with the overall situation in Greece during the times of financial crisis and general distrust among the youth, tired of corrupted

officials, so timing was perfect to launch such an initiative. Nevertheless we still firmly believe that general state of society does not need to be in a shaken state to motivate at least a moderate number of young people to actively engage in anti-corruption activities. In any case a state of apathy should be avoided at all cost, and students should be encouraged to make a difference. If they are educated and have the opportunity to engage in organized extra-curricular activities, this is more easily achievable.

Crawford School of Public Policy of the Australian National University runs a graduate Corruption and Anti-corruption course, as an interdisciplinary introduction to the theory and practice of corruption and anti-corruption, suggesting different remedies with links to development, politics and culture. Evaluation of anti-corruption measures together with cleanup campaigns, NGOs and anti-corruption commissions is also part of the course. Students are expected to understand the theories about the causes of corruption, gain the ability to apply those theories to anti-corruption practice, ability to identify the theories implicit in anti-corruption practice and ability to evaluate various forms of anti-corruption activity. Course includes an introduction, with two weeks of face-to-face teaching and individual meetings with lecturer, therefore promoting less typical ex-cathedra model (Corruption and Anti-corruption- A graduate course offered by the Crawford School of Public Policy, 2018). In addition to that, the Transnational Research Institute on Corruption (TRIC) was established in 2010 as a cross disciplinary center to bring together the Australian National University's expertise in the study of corruption (Transnational Research Institute on Corruption, 2017). Such an institute can be a very helpful addition for larger universities, well established in their environment, and in this case it undertakes technical assistance to international, federal and state authorities.

School of Governance, LUISS, from Rome, also offers a Master in Compliance and Prevention of Corruption in Public and Private Sectors. It is organized in cooperation with National Anti-Corruption Authority (ANAC), and offers training of professionals and experts in the field of anti-corruption for the purposes of public and private sector (Master in Compliance and Prevention of Corruption in Public and Private Sectors, n.d.). Having local anti-corruption authorities cooperate in preparing and running such programs has an indisputable added value and should be encouraged in all cases. Faculty of law in Ljubljana tries to cooperate

with our Commission for the prevention of the corruption and Slovenian chapter of the Transparency International.

Anti-corruption international mechanisms is a course taught at the MGIMO University in Moscow (European Studies Institute, n.d.).

In the case of Harvard University it is worth pointing out the Transnational Corruption course focused on significant substantive and practical issues in international anti-corruption work and explores the emergence of the anti-corruption movement as a whole. Second, and more interesting approach is the one practiced by Professor Matthew Stephenson in the form of the Global Anticorruption Lab. (Global Anticorruption Lab, 2018). This is not a typical course, because students choose topics of their interest to explore and later discuss with the rest, while posting on the Global Anticorruption Blog and are expected to participate in online discussions about other blog entries. Similar activities could be employed as part of extra-curricular activities at other universities, too. In this case, aforementioned professor is the chief editor of the blog, but if there would be interest for cooperation on this matter between several universities in e.g. Balkan region, a single academic with some help from students, could run a blog of this type. Brainstorming and exchanging ideas with other students would be a valuable incentive to engage in these kind of anti-corruption activities.

EXTRA-CURRICULAR PROGRAM OF THE FACULTY

MUNLawS Conference: simulation of the Conference of the States Parties to the UNCAC

The MUNLawS is a series of Model United Nations conferences aimed at university and high school students, which take place at the Faculty each year in the autumn. More than 500 delegates from 30 countries and 4 continents have participated in the last five conferences. These conferences are extra-curricular activities, popular among university and high school students all around the world, and represent a great opportunity for young people to put their knowledge to the test and engage in debates similar to those held in the international organizations.

These events are also very valuable for students organizing them, as they require several skills to assure the conferences run smoothly.

Logistical and academic oversight is necessary to make sure that guests of such multi-day events are satisfied with the experience. Students work independently, but have the needed support of the academic mentors, who provide for the arrangements with the faculty itself, and advise them regarding possible legal questions related to the study guides. Study guides are materials prepared for each of the simulations, stating the topics and offering delegates insight into the core issues that should be discussed and resolved. It comes as no surprise that most common simulations are those of the Security Council, various General Assembly's committees, Human Rights Council, International Court of Justice, Permanent Court of Arbitration, NATO and similar ones. These simulations are often encountered and students are familiar with the way each of them functions and they have very often already studied about a plethora of legal and political questions that they encounter while representing a state in one of these, colloquially called, "committees". When choosing the topics, currently important questions are emphasised, it is common to put delegates into a position to solve an actual case currently in front of an international judicial body, or to encourage them to debate about general topics that resurface periodically on the international level. The MUNLawS 2016 introduced a new committee focusing on corruption. Looking at the other MUN events, it seemed that this is a very rare simulation at the faculty/school of law. In 2018, the Faculty is hosting already a third simulation of the CoSP to the UNCAC.

UNODC very recently prepared a Resource Guide for those interested in organizing and participating at Model United Nations (MUN) conferences, especially those dealing with crime prevention, criminal justice and other aspects of the rule of law. It is designed for use both in schools and universities. This document was prepared as part of the Education for Justice initiative and is tightly linked with the Agenda 2030 and its Sustainable Development Goals, most notably Goal 16 dealing with peace, justice and strong institutions. It consists of seven sections relating to core topics (including corruption), an introduction and information on useful resources. Suggested topics are:

- Corruption and sustainable development
- The impact of corruption on human rights
- The role of the media in the fight against corruption
- Bribery in law enforcement agencies

- The role of civil society (or the participation of society) in countering corruption
- Corruption in sporting events
- Protection of whistle-blowers
- Access to information and corruption
- Corruption in the private sector
- Corruption and gender
- Corruption and poverty. (UNODC, 2018)

The Faculty's simulation of the CoSP to the UNCAC was organized for the first time two years before the UNODC Resource Guide was published and the co-authors of this paper were actively involved in providing necessary experience and know-how in organizing such simulations.

When organizing a MUN event, it firstly needs to be decided which committees will be open only for university students and which also for younger ones from high schools. If topics are not strictly legally based, therefore excluding cases in front of the International Court of Justice (hereinafter: ICJ) or Permanent Court of Arbitration, younger students can fit in very well and are good delegates, with sufficient and sometimes richer MUN background than their older counterparts. Corruption is without a doubt a topic that ranges from very detailed legal and economic questions to more general, political and societal issues. As such, it is a good choice to attract students who would like to give it a try in a simulation encompassing different aspects. So far, high school students in the CoSP to the UNCAC fared well, while university students, both domestic ones and guests from abroad, like the fact that a less typical MUN simulation was available for them to join.

Asset Recovery was chosen as one of the topics in 2016, because it was on the agenda of the real CoSP to the UNCAC Seventh Session in the following year. This way students were not given an easy path of merely copying existing documents, but had to come up with their own solutions and focus. Knowing that they are addressing a problem that a real policy-making body of the UNCAC will be dealing with in a couple of months' time, contributed to their eagerness.

However, since the MUNLawS conferences are usually either 3 or 4 days long, it is vital to have enough material to discuss in order to avoid a situation where delegates consume the main questions too fast. Goal of MUN events is not to scrutinize every single detail, but to give students a platform to test their diplomatic skills combined with raw knowledge. Thus, it is useful to prepare also a second topic, which in 2016 centred

around Engagement with Civil Society, a more general topic, giving room for bringing more elements into the debate. Engagement with Civil Society is also a topic that directly affects delegates as individual members of society, who can contribute to the fight against corruption themselves. By studying about different methods and researching the civil society's contribution, delegates can use this newly gained information back in their own settings, thus making an impact. Unlike simulating proceedings in front of, for example, the ICJ, where one cannot expect that delegates' work during an MUN conference will have any direct real life impact, equipping delegates with new anti-corruption related skills and information regarding engagement with civil society, could actually reflect in the real life.

Encouraging students who go to such events to at least briefly report about their findings back at their own universities and high schools, could greatly increase the outreach, and that is true for a greater amount of topics, not just the fight against corruption. This could be done at least in the circle of regular MUN participants, who often have their own club, but if the time allows it, dedicating a couple of minutes during a lecture related to the topic discussed during a MUN, or posting a short notice on a website of a university or a high school would be very welcome.

In year 2017, the selected topics were Corruption in Sports and Whistleblowers - Protection of Reporting Persons. Corruption in sports was a topic chosen due to the great interest demonstrated during the curricular activities in the connection between sport and law. The aftermath of 2015 FIFA corruption scandal provided a familiar focal point for the start of debate, and the stories surrounding bidding processes for the world cups Russia 2018 and Qatar 2022 added to the initial attractiveness of the topic. Doping, match fixing and other related questions were also addressed.

The 2018's topics are Political and Judicial Corruption and Anti-Corruption Education.

When it comes to the rules of procedure it is possible and desired to use ones as close to the real documents in actual use. However, it may turn out to be easier to streamline certain details and increase the chances of delegates feeling more comfortable when debating. A lot of them will usually have some MUN experience from other committees and certain terminology is used throughout MUN conferences around the world. However, it is imperative to assure that decision-making process is as original, voting procedure too and that the final documents

adopted have the required form. This is easily achieved with the help of the study guide and some guidance during the conference itself. While copying of the content of old resolutions is prohibited, the form and typical phrases used in them should be taken into account to guarantee that the final document will look every bit like a real one adopted at the CoSP to the UNCAC.

Knowing the importance of consensus decision making and ability to persuade others with legal arguments to lead the debate in proper direction is invaluable. The findings of the MUNLawS Conference could be incorporated into the research conducted by the legal clinic and further improved and tailored for specific purposes. Students who would gain such experience would present an invaluable future base of experts in the field of fighting corruption.

Anti-corruption Legal Clinic

The Faculty has been successfully organizing various legal clinics for many years. They represent an important part of extra-curricular activities that enable students to gain knowledge and acquire skills, as well as exchange views with their mentors on both theoretical and practical aspect of a certain legal field. It is important to mention that the students selected to participate should be highly motivated and personally interested in the topic addressed.

Based on good experiences with other legal clinics and favourable response to the CoSP to the UNCAC simulation during MUNLawS conferences, the co-authors of this article drafted a programme for a legal clinic in the field of anti-corruption. In the next step, it is important to build on the already existing know-how acquired during other ongoing legal clinics. Assuring cooperation with international organizations that are combatting corruption would immensely assist the envisaged Anti-corruption Legal Clinic and cooperation with UNODC is perceived of particular added value. Envisaged is also an establishment of a small library collection that strives to offer the students access to up-to-date domestic and international literature from the respective field, including selected bachelor theses with English abstracts, as corruption has proven to be a topic often chosen for theses on all three cycles of legal studies at the Faculty. Encouraging students to translate those theses, or at least selected parts of it, could benefit

students from other partner universities, also members of the ACAD Initiative, or those from newly made connections. If more respective law faculties decided to establish similar kind of extra-curricular activities, they could mutually reap the benefits of collecting and disseminating knowledge of their students. Dissemination can be done either through a dedicated website or/and active cooperation with foreign legal clinics and similar extra-curricular activities.

During the course of the clinic, it is meant for the students to attend lectures by law experts and experts from other disciplines on a specific issue and learn to look for solutions through practical work. Volunteering for various NGOs enables students to put their newly gained knowledge to the test and similar opportunities are enabled as already mentioned, as part of the Economical Criminal Law elective course in cooperation with Transparency International. Students who would go through the aforementioned elective course and who would contribute to the Anti-corruption Legal Clinic's activities, would certainly be a valuable asset for Transparency International's tasks.

Thanks to the satisfaction of all parties in the course of now already almost two decades long process of legal clinics' work, under the auspices of the Faculty, comparable new projects are met with interest. Faculties that would choose a similar path of introducing anti-corruption related activities, should always emphasize their past successes, while trying to improve already tested concepts.

Proposed outline of the Anti-corruption Legal Clinic

Main goal of each year's Anti-corruption Legal Clinic would be preparation of a legal study focusing on the most pertinent corruption related issues. Each year a new topic would be selected that could later on serve as an important source of information for legal practitioners, relevant authorities, ministries, NGO representatives, academics, law enforcement agencies, who could rely on up to date facts and proposals for future improvements on all levels.

Anti-corruption Legal Clinic would consist of:

1. Introductory lectures by professors from the Faculty addressing corruption from criminal law, international law and civil law point of view.

2. Introductory discussions with representatives of the Ministry of Finance, Ministry of Justice, Ministry of the Interior Affairs, Customs, and Police with judges, prosecutors, notaries and other interested legal practitioners.
3. Visit to the Commission for the Prevention of Corruption of the Republic of Slovenia.
4. Presentation by the Slovenian Association of Lobbyists.
5. Visit to the Transparency International Slovenia.
6. Cooperation with the simulation of the Conference of the States Parties to the UNCAC at MUNLawS Conference.
7. Work on concrete cases that will be selected each year in accordance with currently relevant issues.
8. Final round table on the findings of the Anti-corruption Legal Clinic and presentation of the legal study to the public.

Introductory Lectures

Criminal law aspects of this topic would be touched upon first. Relevant provisions of Criminal Code and Liability of Legal Persons for Criminal Offences Act would be presented among others and would complement information gained at previous lectures. Special emphasis would be put on corruption in international business relations on one side and harmful effects of corruption on human rights on the other. Council of Europe's Criminal Law Convention on Corruption and Additional Protocol, together with the United Nations Convention against Transnational Organized Crime and OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related recommendations would be one of the focuses of the enveloping debate. This would enable students to recognize the pattern adopted by numerous treaties and consequential changes to national legislations, raising the question on whether the latter were implemented appropriately.

Following the first batch of lectures, lecturers are to present some of the important documents, e. g. Convention on the Protection of the European Communities' Financial Interests and its protocols and the UNCAC. Potential weaknesses are to be discussed, ranging from existing monitoring mechanisms, questions related to funding of political parties, to vague terminology. African Union Convention on Preventing and

Combating Corruption and Organization of American States Inter-American Convention against Corruption are also to be presented, particularly their provisions regarding asset recovery and their regional importance in general. The lectures are to continue with the European Union Convention against Corruption Involving Officials aimed to fight corruption involving EU or Member States' officials and European Union Convention on the Protection of the European Communities' Financial Interests aimed to create a common legal basis for the criminal protection of the EC's financial interests where fraud affecting expenditure and revenue must be punishable by criminal penalties. These steps that EU have taken to eliminate corruption can serve as a good example of a more detailed regulation.

After the first part, civil law characteristics relevant for anti-corruption efforts are to be explained. In addition to Slovenian legislation, the students will familiarize themselves with the Council of Europe Civil Law Convention on Corruption. Validity of transactions in connection with anti-corruption clause shall be described in detail, with additional emphasis on state liability, protection of employees who report corruption, contributory negligence and clarity and accuracy of accounts and audits. Better understanding of asset preservation and international cooperation which are embedded in the Civil Law Convention on Corruption will be assured. Work of the Group of States against Corruption (GRECO) which monitors commitments entered into under the Convention by the State Parties, would be more comprehensively explained later during the course of legal clinic by possibly inviting Drago Kos, former president of this group.

Numerous aspects of the fight against corruption; the role of police, state prosecutor and (excessive) influence of political elite in cases of grand corruption and overall confidence in good governance would be discussed as Slovenia has recently been faced with several notable related events. Importance of codes of ethics, both in public and private sector, and the question whether the regulation is satisfactorily focused on the most relevant types of frauds and corruption would be elaborated and as such included in the final study.

Discussions of academics and students from the Faculty with the staff of the Ministry of Finance, Ministry of Justice, Ministry of the Interior Affairs, Customs, and Police with judges, prosecutors, notaries and other interested legal practitioners are to be organized in order to recognize and emphasize additional aspects that are required to be dealt with during the legal clinic.

Visit to the Commission for the Prevention of Corruption of the Republic of Slovenia

Visit to the Commission for the Prevention of Corruption of the Republic of Slovenia together with the students would enable the participants to fully evaluate the tasks of the Investigation and oversight bureau, Centre for prevention and integrity of public service and Secretariat. Since the employed professionals have expertise in other fields beside law, such as economics, social sciences, investigation conduct and audit, students would be able to ask questions regarding various topics. Project Transparency would be presented, together with the online application “Supervizor” for monitoring expenses of public bodies and options of spreading good practice to other Member States and usefulness of similar practices abroad would be discussed.

Changes in years following the resignation of former leadership would also be discussed later at the faculty with an emphasis on future plans for improving the body’s functioning and how to prevent unwanted consequences of similar events in other Member States or at the EU level, particularly in states that have joined the EU in year 2004 or later. Rise in reputation and power of the Commission, but also the beginning of a new era full of obstacles after the resignation of the Commission’s leadership in 2013 surely left its mark. The three-member presidency’s stepping down was a sign of protest in light of claims of systemic corruption in banking system, healthcare and in power plant construction project, damning reports on notable party leaders and lack of legal consequences following the above mentioned issues. Countries wider in the region could relate to similar kind of troubles and cooperation with other faculties on exchanging information on their experience of solving these problems would be very valuable.

Slovenian Association of Lobbyists

Slovenian Association of Lobbyists would present various aspect of lobbying, which is publicly widely regarded to have a negative connotation. 81% of Europeans think that overly tight connections between corporate and political world are the reason for corruption in their respective states, while more than a half believe that business success is possible only with political help. Lobbyists are recognized as those who importantly contribute to these processes and are often

generalized as being only the representatives of large corporations which possess excessive power. Formally speaking, Slovenia has regulated lobbying fairly well and European Commission recognized this in its report in 2014. In addition to this, Transparency International EU assessed the regulations of 19 EU member states, finding that only 7 of them have regulation that targets lobbying. Slovenia was the best performer, but even then has scored only 55 points out of possible 100 (Mulcahy, 2014).

Integrity and Prevention of Corruption Act is the main document regulating this area in details, but Transparency International Slovenia claims that lobbyists are inadequately, too narrowly or too broadly defined while “lobbying targets” are inadequately defined. While the definition of lobbying itself is clear and comparable to international standards and transparency is regulated by a comprehensive law, the practice shows there is still a lot of room for improvement. Additional self-regulation of lobbyists, which is possible and welcome, encountered numerous difficulties in Slovenia. Code of Ethics for Lobbyists was adopted but it is inadequate in several aspects and most importantly, negative media reports further hampered the efforts of lobbyists to improve their public image.

Transparency International Slovenia

Transparency International Slovenia is to present the successes of their past and active projects, e.g. “Spregovori” (Speak up), which encouraged citizens, witnesses and victims of corruption, to report such acts. Opening of the Advocacy and Legal Advice Centre in Slovenia marked another step forward and experience gained since the start, can greatly contribute to proposals the legal clinic could include in its legal study. Transparency International Slovenia also successfully raised the voice when Slovene government planned to partially obstruct access to public information by charging certain costs and students could emphasize importance of this when collaborating with students from abroad.

Students would gain the opportunity to assist Transparency International Slovenia upon their request with legal advices they provide to citizens in need of them and during the actions will have the full support under the mentorships of academic experts involved in the conduct of actions. Practice currently exercised via the course of the

Economic Criminal Law, could therefore be maintained and possibly further expanded.

Transparency International, Access Info Europe, Sunlight Foundation and Open Knowledge International developed the International Standards for Lobbying Regulation (International Standards for Lobbying Regulation, 2015) after two years of collaborative work with civil society. As an example of excellent attempt of combining best provisions from various national regulations in an internationally recommended framework we would try to use it to find further improvements for existing regulations on both levels. Access to information, registration and disclosure, “revolving door” phenomena, to oversight, verification and sanctions would be discussed in detail and evaluated in the legal study.

Synergy with the simulation of the Conference of the States Parties to the UNCAC

Aforementioned simulation of the CoSP to the UNCAC as part of the annual MUNLawS Conference could be incorporated into the work of the Anti-corruption legal clinic. Students engaged in legal clinic’s activities could participate either as part of the academic team or as delegates themselves, contributing to the overall level of debate. Students who would be using the TRACK, central platform of “Tools and Resources for Anti-Corruption Knowledge” developed by UNODC already during the legal clinic, could put it to good use during this process, combined with The StAR, “Stolen Asset Recovery Initiative” database, product of partnership between the UNODC and the World Bank Group encompassing information about large-scale corruption cases that could serve as an important example of cooperation between various actors. Delegates would therefore aim to include innovative proposals and findings from the legal study in the final documents adopted at the simulation of the CoSP to the UNCAC. The social aspect of MUN conferences could also result in delegates from the Faculty of Law, University of Ljubljana finding other similarly thinking students from abroad, who could later on establish similar types of anti-corruption legal clinics or extra-curricular activities at their own institutions.

Legal writing skills required for writing documents that are to be adopted at the MUNLawS conference and for the legal study written

during the Anti-corruption Legal Clinic, would also greatly contribute to overall improvement of students' capabilities.

Additional activities

A survey would be conducted among legal practitioners, students of several faculties of the University of Ljubljana and possibly also other ACAD Initiative members in addition to a representative sample of general public. The surveyed persons would be at the same time informed of the importance of domestic and international anti-corruption efforts and proper actions that are expected to be taken. This would eliminate the downside of surveys, which are often only question-orientated and are thus missing the opportunity to educate the surveyed on the topics covered.

At a certain point when enough experience would be gathered, the Faculty would consider organizing the Annual Meeting of Presidents of the Associations for European Criminal Law and for the Protection of the EU Financial Interests. Hosting this network of academics and practitioners would require a lot of preparations and any help that could be offered by the students who would by that point have academic and organizational experience from the Anti-corruption Legal Clinic and MUNLawS, would be instrumental.

Final Round Table

In order to disseminate the results, the Faculty is planning to organize an annual round table where the outcomes of Anti-corruption Legal Clinic's work would be presented. Selected guest speakers from the initial lectures would be invited for short speeches to complement the presentation prepared by the students, followed by a discussion. Because representatives of the media would be invited and hopefully the turnout of others students and general public would be good as well, the outreach of Anti-corruption Legal Clinic would be increased this way. The final legal study written by members of Anti-corruption legal clinic would be published on the faculties' webpages and made publicly available at the first possible opportunity. Electronic copies would be forwarded to relevant domestic institutions and NGOs such as Transparency International Slovenia and Slovenian Association of

Lobbyists to assure the results would be further disseminated. Depending on the established links with other members of the ACAD Initiative, our work would be shared directly with them too. A number of hard copies of the legal study would be printed and made available in university libraries.

These actions would immediately contribute to overall theoretical knowledge of the legal practitioners, relevant authorities, ministries, NGO representatives and law enforcement agencies. Organization of conferences and round tables during the duration of actions would enable the participants to start implementing new proposals, based on the legal study. Informal feedback provided by constant communication between the parties would benefit both sides and improve the overall usefulness of planned activities. In the long term academic knowledge that experts will pass on the students of the Anti-corruption Legal Clinic will be put to good use, as they will gain necessary legal skills to increase their employability. The core legal study would serve as an easy to use document, which will provide concrete data on the good and bad practices and thus enable us to better understand and improve existing regulations.

CONCLUSIONS

Based on experience gathered so far by the Faculty, both curricular and extra-curricular activities dealing with prevention of corruption play an important role in achieving the goal of producing a law graduate knowledgeable and skilled to contribute to fight against corruption. In terms of substance, it seems that anti-corruption contents is best addressed as part of a course connected with criminal law, especially if it is dealing with economic aspects, and during courses on public international law, constitutional law, EU law and economic law related courses.

A separate course dedicated solely to anti-corruption might not always be feasible, particularly for faculties with a lower number of students and staff. In such cases, instead of having a corruption oriented elective course, main elements can be dealt with during the aforementioned courses, while additional in-depth work can be done in the form of extra-curricular activities. In the case of the Faculty, the results achieved through an annual simulation of the CoSP to the UNCAC

as part of the MUNLawS Conference are encouraging, and even more can be achieved through establishment of an Anti-corruption Legal Clinic that would be an even more ambitious and time consuming project. However, the outreach of it would be much greater and the same is true for potential cooperation with other universities potentially organizing similar activities. Interest for anti-corruption education certainly exists among the students but courses and extra-curricular activities need to address current challenges and offer students a chance to actively contribute to the fight against corruption.

It is also highly recommended to ensure continuous interaction of the faculty staff and students with both governmental and non-governmental sector, including private companies, to exchange ideas and experiences in the field of anti-corruption. It is equally important to provide opportunities for internationalization, possibly linking anti-corruption activities at the faculty with regional and global actors, as well as joining forces with other educational institutions to engage in common projects and regularly exchange best practices.

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Educating Students and University Staff on Whistleblowers' Protection as a Tool for Countering Corruption in Higher Education

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ABSTRACT

Corruption in higher education is not an easy problem to respond to. Students spend approximately three years studying undergraduate programs, 2 years studying master programs and 3 or 4 years studying PhD programs. They tend to study different program levels in different universities. The limited time they spend in universities makes them especially reluctant to report corruption cases, thus, gives better chances to professors to endure in corruption cases. Moreover, the stronger position of the professor or other member of staff as compared to that of the student, often makes the latter believe that reporting corruption cases will get him nowhere, instead, they will face serious consequences in their study results.

Therefore, studying corruption in universities is crucial. It is there where young generations learn to stand up for their rights and for the

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injustices in society. Educating them on standards that challenge corruption is essential for the attitude they will have towards the problems they will encounter in their careers.

University staff should also have continuous education regarding these standards. They should be able to assist the students who will be brave enough to report corruption cases and make sure they will not face repercussion because of it.

The aim of this article is to analyze the data regarding corruption in universities gained in studies conducted by the Institute for Strategic Studies and Education. Part of these studies is also implemented in the South East European University. Therefore, the author will suggest and recommend concrete steps in improving the university curricula regarding education on standards fighting corruption.

Key words: corruption, universities, Macedonia, South East European University

INTRODUCTION

According to the Bologna system, students spend approximately 3 years following the study programs. A normal BA study program is usually 3 years, an MA program 2 years and a PhD program 3 years. Duration of study programs may vary in different countries, however, the approximate duration is the one explained above. Moreover, in Bologna system studies, students follow one term courses, which means that they may encounter one professor for a three to four-month course. Thus, students spend intensive but limited time with their professors.

In these circumstances, if the students face corruptive demands by their professor, the time for reaction is also very limited. The student needs to decide if the case is serious enough to proceed with charges, or it should be dropped and carried on further. Usually, the students feel that they will not encounter a fair procedure, and that the system will always protect their professor as opposed to them as subordinates. Moreover, they fear consequences, since, once they report a professor for corruption, if everything fails, they will need to pass the exam with

that professor. This fear is established as one of the main reasons why students hesitate to report corruption cases, as it will be explained below. Therefore, the students tend to let these cases go and follow the “It will shortly pass” logic. It is only one semester, after all, it is only one course, is it wiser to endure in charging procedures, or go on with your studies and finish them on time. At the end of the day, the opportunity costs are very important. The student needs to choose between charging a professor who has asked for bribe or other illegal services, following the procedure and dealing with all the consequent stress, or carry on with the illegal request of the professor, finish the exam and continue further.

Having in mind that in most cases students choose the second option, the professors become automatically protected from being charged for these cases. Therefore, corruption in higher education becomes a phenomenon, and certain professors gain the reputation that they ask for bribes or other services in exchange for grades. This is especially the case in transitional societies, where poverty and lack of trust in state institutions makes students fearful of reporting corruption cases in universities. The “it will shortly pass” logic can be very harmful to building a new generation of people who believe in just and fair society rules. If the university governing and managing bodies do not establish a zero-tolerance policy towards corruption, and if they do not support the reporting of corruption cases, they actively contribute to the creation of generations that tend to overcome the obstacles by ageing to corruption and by paying, instead of working hard for their progress. Creation of such generations contributes to the lack of critical thinking in society, and makes it possible for the young people to learn to be silent in the face of institutional mistakes. Illiberal democracy regimes are created that way, through maintaining a general silence for injustices. Universities can teach the students either to be silent, or to react critically towards such injustices.

Therefore, institutional dealing with corruption in higher education is crucial. Creating a safe environment for the students and the staff who want to report corruption cases is essential. It is the responsibility of universities to create such environment, and make sure they do not produce silent conformists who agree to corruption practices, but vigilant young people who are ready to react and protest against injustices in society.

FORMS OF CORRUPTION

In a recent study conducted by the Institute for Strategic Research and Education (ISRE, 2017) 43.9% of a total number of 472 surveyed students from four different universities in Macedonia confirm that they believe there is corruption in their universities (ISRE, 2017, p. 24). When asked what kind of bribe the students were asked from professors, the most frequent answers are the following (ISRE, 2017, p.26):

- Students are forced to buy textbooks authored by certain professors in order to be able to pass the exam (22 answers),
- Students are forced to buy textbooks authored by certain professors in order to be able to gain a higher grade in the exam (15 answers),
- Students are asked to pay money in order to pass the exam or gain a higher grade (5 answers), and
- Students are asked for other services in order to pass the exam or gain a higher grade (4 answers).

It is evident that buying and selling textbooks to the students represents the most common form of corruption in our universities. It should be taken into consideration that most of the surveyed students in this study published by ISRE are undergraduate students. It should be taken into consideration that in master and PHD studies there are also other forms of corruptive practices common in universities, such as buying gifts for the professors on the occasion of a successful defense of a thesis or dissertation, buying lunches or dinners and other services for the members of the commission, etc.

When asked what are the reasons why students hesitate to report cases of corruption identified above, most of the students have given the following answers:

- Fear of consequences (33%),
- I believe my reporting will change nothing (26%)
- I believe that no one will proceed according to my reporting (19%)

This means that approximately 75% of students feel that they are not protected if they decide to report cases of corruption. At least $\frac{1}{4}$ of them are convinced that their reporting will not change anything in this regard, whereas $\frac{1}{5}$ of them are convinced that their reporting will not be looked seriously.

These answers are a good indicator of the level of trust of the students in regard to university bodies and state institutions. This lack of trust in institutions and in the justice system is common in the countries of the region and also in Macedonia. Unfortunately, this is something that students learn from a young age and from the experience of others. As a result, it becomes hard to convince them to take action against something that is not just, instead it is harmful for the society. Moreover, students are often taught to mind their own business, and to not interfere into others' problems or difficulties. This lack of solidarity among citizens and sometimes also among youth, creates silent generations which become apathetic towards problems that relate to democracy and rule of law issues. Therefore, creating an environment where students feel free to react to injustices and feel protected to do so is crucial to their development as free minded and responsible citizens.

CRITICAL THINKING AND THE GENERAL INTEREST

Universities are in fact institutions where critical thinking is developed, where free minded citizens are prepared to deal with real problem in life and in their professions. But are we really developing critical thinking, or are we educating our students to become conformists instead of critics? Observing the quality of the curricula offered by our universities it is difficult to say that we are doing our best in regard to reaching this important goal of higher education.

Taking into consideration the Bologna system of studies, most of the faculties of law in Macedonia switched from a four-year to a three-year BA study program. In the past, the BA legal studies lasted 4 years and the Master studies lasted 2 years. In the past, given the wider space for developing different legal courses and subjects, due to a longer studying program, courses like sociology of law, philosophy of law, legal reasoning and writing were core courses in the law school curricula. With the shrinking of the study programs to three year studies, most of these "general" and theoretic courses were replaced by positive law courses. The students began to gain more knowledge regarding day to day practice of law, which is a positive development, however, they began lacking knowledge related to the ethics of law and concepts such as general interest and other philosophical approaches and thoughts. Nowadays courses like ethics, philosophy of law, legal reasoning and

writing are rarely taught in depth in our universities. They have almost ceased to exist as core courses and are mostly offered as electives.

On the other hand, students of law faculties are still very often taught to memorize laws and other rules or procedures instead of searching for its meaning and the general interest that those rules protect. That is surely the best way to create conformist instead of critical thinking. There are times when the students themselves notice the lack of critical thinking in classes, such as during the student evaluation of courses. In South East European University, there is an established procedure of student evaluation of courses. In the last one conducted during the academic year 2017-2018, the lowest grades given by the students in general were those responding to the question: "How much did this course develop critical thinking?". That is a clear and measurable indicator which tells us about the level of the development of critical thinking in our higher education institutions. Therefore, investments should be made by universities to develop curricula that enhance and stimulate critical thinking of the students. That is the only way to develop free thinkers who will then be able to react to negative phenomena in the society and report corruption both in higher education but also in real-life situations.

EDUCATION THROUGH ANTI-CORRUPTION CURRICULA

The approach towards teaching anti-corruption should be revised by higher education institutions. Usually, anti-corruption courses are common in legal studies curricula, where this phenomenon is analyzed mostly in courses covering criminal law or administrative law. Separate courses on anti-corruption are rare in the curricula of the universities in Macedonia. Development of multi-disciplinary courses that will study corruption in many aspects, legal, economic, social, cultural, comparative and historical, is essential to providing general knowledge to students in regard to topics related to corruption.

Moreover, it is very important that the scope of these courses is available to all students, instead of only to students studying law. Corruption is a phenomenon that tackles all students and all citizens, not only future lawyers. Therefore, information about the laws regarding corruption, conflict of interest and whistleblower protection need to be available to all students. The best way to do this is through organizing free-elective courses that can be attended by the students of different

schools. There, they can identify corruption practices and learn how to deal with them.

Using the resources of UNODC ACAD network is perfect for developing new courses that cover anti-corruption legislation and good practices.

THE LAW ON PROTECTION OF WHISTLEBLOWERS

According to the result of the study conducted by ISRE, the students and staff of universities have been for long poorly informed about the protection offered by this law. This institute has also organized workshops for students and university staff to inform them better about the possibilities offered in the Law on protection of whistleblowers and to train the staff that should offer protection to students when corruption cases or practices are reported by them. Capacity building is very important. Establishing positions that will closely deal with whistleblowing in universities is crucial.

Students should have basic trainings to know their rights as whistleblowers from the start of their studies and this should be part of their orientation training once they start with their studies. South East European University organizes induction week programs with both undergraduate and post-graduate first year students. That provides an opportunity to train the students on reporting cases of corruption and to inform them where they should do it and what procedure they should follow.

In this regard, establishing trustworthy institutions is crucial. Tackling corruption is usually regarded as a top down approach. If the overall reality in the country is that corruption of high representatives of state institutions is not effectively prosecuted, it becomes very difficult to establish standards of corruption free higher education.

CONCLUSIONS AND RECOMMENDATIONS

The following conclusions and recommendations can be drawn from this article:

- Universities are not only teaching and research institutions, they are higher EDUCATION institutions where the students

should be educated on common values and general interest and where they should be encouraged to stand up against corruption when they identify such cases

- Support for prevention of corruption is crucial from the management, and from the university staff, building trustworthy relations with students is crucial for mutual understanding and future collaboration
- Establishing accountability for corruption cases is usually a top-down approach. A general in-tolerance on these cases is built with hard work, good practices and personal examples.

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1.09 Published Professional Conference Contribution

Preventing Corruption through Education

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ABSTRACT

The principal aim of this paper is to accentuate the importance of education in order to repress the problem with corruption that unfortunately very often happens especially in developing countries where institutions are weak and function poorly. The corruption is like a fuse that triggers a large number of problems in the society. For example, it can sabotage economic growth, harm the rule of law and questions the legitimacy of institutions. In this case, education can be the weapon that fights against the corruption. It is disappointing the fact that Transparency International published a survey which shows that one in six students has had to pay a bribe for education service.

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Education as a process of acquiring set of skills, knowledge and ethical values should prepare students to follow a particular career path and if they are taught of the real value of those qualifications and how much are needed if they want to have a successful career maybe they will pursue the knowledge, not just the degree and good grades.

In general, the education has a duty to be focused on developing the capacities of students that will lead to economic growth as antipode of corrupted gained qualifications that can stigmatize economic development, the function of institutions, also it has to be more dedicated on human rights because education is fundamental human right which means that everyone must have equal access and treatment in the schools and universities.

Key words: *education, corruption, economic growth, human rights, qualifications*

THE PHENOMENON OF CORRUPTION

Corruption as a destructive phenomenon unfortunately is known long time ago. It can be found in all countries - big and small, rich and poor – and its effects on the society are always destructive. The term corruption in fact means abuse of public authority to achieve certain private goals. To be more precise, in the broadest sense of the word, the corruption itself is abuse of public authorizations and positions for cohesive, private and party interests. While anti-corruption legislations define corruption as an exploitation of public power, official duty and position for achieving personal benefit.⁴ Etymologically the word corruption comes from Latin “corrumpere”, which means bribery, destroy.

⁴ Statement On The Adoption By The General Assembly Of The United Nations Convention Against Corruption; New York, 31 October 2003; <https://www.unodc.org/unodc/en/treaties/CAC/background/secretary-general-speech.html>

Corruption deserves more attention because of the negative effects that it has on the society. It undermines democratic institutions, slows economic development and contributes to governmental instability. Corruption attacks the foundation of democratic institutions by distorting electoral processes, perverting the rule of law and creating bureaucratic quagmires whose only reason for existing is the soliciting of bribes. Economic development is stunted because foreign direct investment is discouraged and small businesses within the country often find it impossible to overcome the "start-up costs" required because of corruption (Aslimoski, Stanojoska, 2012). Also it hurts the poor disproportionately by diverting funds intended for development, undermining a Government's ability to provide basic services, feeding inequality, injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development.

According to the Civil Law Convention on Corruption, that entered into force on 1st of November 2003, "corruption" means offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behavior required of the recipient of the bribe, the undue advantage or the prospect thereof.⁵

It is necessary to take into consideration the fact that corruption is an enormous threat to the fundamental rights and freedoms of citizens that are guaranteed by the Constitution of the state and with international documents, first of all with the Universal Declaration of Human Rights and Freedoms and the European Declaration of Rights and fundamental freedoms of citizens. Corruption can manifest itself in various forms even in a "sophisticated way" that sometimes only professionals can recognize it. Given the facts above, it can be said that corruption is a disease for the entire society and can take a large scale and hinder its functioning to a large extent. It is therefore necessary for each state to build effective and practical methods for its suppression.

⁵ Civil Law Convention on Corruption, Council Of Europe 1999, Article 2

WEAK INSTITUTIONS IN DEVELOPED COUNTRIES

Corruption takes place in a large number of countries mostly due to weak and inefficient institutions. We can say that when corruption is widespread, the state cannot implement basic obligations for the realization of the basic human rights. Corruption is abuse of power, which tends to provide benefits for a certain elite circle that has power, to the detriment of others who are unable to defend their rights and interests. In practice, it is known that when human rights are not protected, corruption is on the highest pedestal. In an environment where there is lack of guarantee and protection of basic human rights or lack of information it is extremely difficult to expect public officials to act responsibly to their duties, which creates more space for the free spread of corruption.

FACTS ABOUT THE CORRUPTION

Almost every country, no matter how democratic it is, is not immune to the phenomenon of corruption. This social disease equally attacks government officials, politicians, business leaders, and journalists. As we mentioned above corruption can greatly sabotage economic growth. It destroys national economies, undermines social stability and aggravates public confidence. Corruption reduces tax revenues, increases public service costs, and distorts the allocation of resources in the private sector, humiliates the citizens and weakens the state. The fight against corruption has been high on the agenda of OSCE participating States, also the Economic Forum in Prague in 2001 and a seminar that followed in Bucharest in 2002, were dedicated to good governance. The OSCE Office for Democratic Institutions and Human Rights, as well as OSCE field offices, organized debates and training programs. In some cases, within the framework of anti-corruption campaigns, the OSCE cooperated with international, as well as with local partners.

There is also a correlation between corruption, economic growth and transition in developing countries. In a society where the spirit of a devastated economic basis and erosion in all spheres of social life, inevitably there is a favorable atmosphere in which corruption and bribery successfully begin to master (a process that is successfully encouraged by multinational companies that are making serious

breakthroughs in the economy of these states). The favorable ambience for the infiltration and development of corruption is the lack of a sufficiently developed administrative and political structure, as well as the absence of appropriate and applicable legislation, weak and non-functional institutions of the system that are blocked, with few opportunities for their rapid strengthening for full and efficient operation.

In addition, very encouraging and alleviating for corruption are the convenient market laws and the weak economic policy, the absence of serious state control and the process of privatization. With a criminal pretext through favoring "privileged" party firms and investors close to the government. In this context, the most dangerous variant for these countries is if the transition process is unjustifiably prolonged and completely diluted in the wrong direction, becoming counterproductive and very detrimental to the further development of the society.

The latest Transparency International report places Macedonia among countries with very high levels of corruption. Experts say the country has non-functional anti-corruption institutions. As reported by Transparency International, Macedonia is on the European bottom according to citizens' perception of the degree of corruption in their country. Behind Macedonia on the Transparency list are just Kosovo and Ukraine. The country has been falling behind for almost all relevant good governance lists for years by world-leading organizations and institutes. With the index of perceived corruption of 37, Macedonia this year is together with Colombia, Indonesia and Liberia and shares it with 90th place. At the top again are Denmark and New Zealand, while at the bottom are Somalia and South Sudan.⁶

In Republic of Macedonia, other surveys on corruption have been conducted. Thus, for example, the Coalition All for Fair Trials conducted a survey on court cases related to corruption in Republic of Macedonia, and obtained relevant data related to criminal acts in the area of corruption in the country. Furthermore, the following data were obtained regarding the type of criminal offenses committed in the country: abuse of official position and authority is represented by 74%

⁶ See: "The corruption enslaved Macedonia for eternity";
<https://www.dw.com/mk/>

of all criminal acts in the country; receiving a bribe - 4%, fraud - 13%, etc. The results of their research indicate that the abuse of position and authority is the most common type of corruption according to 33% of the respondents, which compared to the previous survey, where the percentage is 74%, is significantly lower. Or, for receiving a bribe - 28.5% of the respondents consider the most abusive type of corruption, but according to the Coalition survey, it is represented by only 4% (Nikolovski, Sazdovska & Krstevska, 2014).

THE CORRUPTION IN EDUCATION

We live in a time when the world faces many problems that make our survival on the Earth more difficult. However, not all parts of the world are equally affected by those problems ranked among the most serious threats to the human race: high unemployment rates, poverty, low levels of education, low level of technological development, gender discrimination, ethnic and religious inequality and high level of corruption. The threats we face in the modern world are numerous: one of the most serious ones that needs to be emphasized is corruption in education.

In the most developed countries, corruption has found its way to this area and seriously threatens schools and universities. Corruption in the education sector can be defined as "the systematic use of a public function for private benefit, the impact of which is significant on the availability and quality of educational goods and services and has an impact on access, quality or equity in education" (Hallak & Poisson, 2002). Unfortunately, very few studies have been conducted to compare the costs of corruption in the education sector.

Corruption in education is in more visible now than decades ago, and academic knowledge has a greater impact in most societies. To a large extent comes the fact that educational institutions have become professionally oriented in their struggle to survive, disregarding their basic function - to train quality and appropriate staff who will be able to cope with the challenges facing the world today.

We are witnesses that the number of educational institutions is increasing by offering the same or similar curriculum in order to attract

as many students as possible, rather than developing curricula that are oriented towards the structure and needs of the labor market, both at national, regional and global level. Basically, the quantity threatens the quality. We can also see that bachelor, master and doctorate dissertations can be purchased at fairly low prices over the Internet, which completely degrades the importance and sense of education. Moreover, diplomas are degraded due to their overproduction, lack of knowledge and competences that should be achieved through education. It is clear that this overproduction of diplomas cannot solve the problem of the insufficient level of education of the population in many parts of the world, nor can artificially increase the quota of the level of literacy of a nation. Given that education is the basis for the development of the nation and the survival of the global economy, it is necessary that this negative tendency be prevented as soon as possible. Nothing can destroy the country more than its poor and corrupt educational system. Hence, this issue not only calls for special attention of the scientific public, but rather relates to the domain of international criminal law. As a result, it is necessary to launch a massive campaign to close the quasi-educational institutions that produce "intellectual disorders". However, education should return to its original role with a new prefix, that is, creating education directed towards the needs of students and new knowledge that will be synergistic with the demand on the local, regional and global labor markets. More than ever, we need knowledge that can be applied to the 21st century economy, a knowledge-based economy. For this reason, attention needs to be paid to education, because of its implications for poverty, unemployment and other problems that the world we live in today (Radovic – Markovic, 2012).

Transparency International and OSCE conducted a survey and results show that citizens believe that neither the reforms can save the education from corruption. More than half of the respondents from the survey estimated that there was large or moderate corruption in the educational process, 56 percent reported - the most corrupt is higher education., 73 percent of the respondents said they were being asked for a bribe, and most often for passing an exam, but only 8.2 per cent admitted that they gave a bribe when asked.

One third of citizens believe that corruption is spreading and that today it is more widespread than four years ago. The survey examined

how to get employed at faculties and secondary schools, how to get grades and take exams, how to get a place in a student home. The awareness was alarmed by anti-corruption workers.

As far as the legal aspect of corruption is concerned, it is important to emphasize that in Republic of Macedonia there are several laws. The legislation in Republic of Macedonia corresponds with the European legislation and the conventions ratified by the state. In the criminal law, the term corruption includes abuse and exploitation of a function for making a profit. In order to regulate this area, several laws have been adopted, such as the Law on Prevention of Corruption, the Law on Prevention of Conflicts of Interest and the Law on Money Laundering Prevention (Official Gazette of R.M. number 4/08). Furthermore, Macedonia has established State Commission for the Prevention of Corruption. The last law that has entered into force and is the most important one for the suppression of corruption is the Law on Protection of Whistleblowers. Also, several acts of corruption are covered by the Penal Code of the Republic of Macedonia. Those acts are Receiving Bribery (Art. 357); Bribing (Article 358); Giving an award for unlawful influence (Article 358 a), Receiving a reward for unlawful influence (Article 358 b)

Regarding the Law on Prevention of Corruption under the term corruption, in terms of this law, corruption is defined as abuse of the function, public authorization, official duty, public office and position for gaining any benefit for oneself or for others. (Article 1 a). This law also covers the provisions for receiving gifts (art. 30), the unlawful request of a superior (Article 40), Non-reporting offense (Art. 41), offer of bribe (Article 44) . The Law on Prevention of Conflicts of Interest bans receiving gifts by officials for the exercise of official duties. If is offered a gift to an official he is obliged to refuse and report the identity of the bidder..

As far as the Law on Whistleblowers Protection is concerned, as previously mentioned, it is one of the most important ones for the suppression of corruption. According to the Law on Protection of Whistleblowers, whistleblowing is defined as reporting with which, in accordance with this Law, a reasonable suspicion or knowledge is made that it has been committed, that it is being executed or that it is likely that a punitive or other illegal or unacceptable acting, which violates or

endangers the public interest. The public interest is defined as the protection of the fundamental freedoms and rights of the individual and the citizen recognized by the international law and established by the Law on Protection of the Attorneys; Academician with the Constitution of the Republic of Macedonia, prevention of risks to health, defense and security, protection of the environment and nature, protection of property and freedom of the market and entrepreneurship, rule of law and prevention of crime and corruption.

THE EDUCATION AND ITS MEANING (THE EDUCATION AS A WEAPON AGAINST CORRUPTION)

Is it enough to have just a legal foundation that will prevent the corruption? As we have seen in many countries there are laws that should fight against it, but obviously that's not enough. Our recommendations to prevent the corruption are more focused on the ethical behavior.

First, what is the main purpose of education? According to some definitions, education means gaining wisdom and cultivating knowledge that will help people through their life. Generally speaking, nowadays people pursue education not only because they want to be more wise, education now means well paid job, successful career, power, prestige and so on. The degree is the ticket to the world where you could have all of that. This is exactly why they want to get "the ticket" in every possible way including bribe. On the other side, as we mentioned before, the number of new educational institutions is increasing and there is a hyper-production of diplomas which leads to have a lot of graduated but unemployed citizens. The quantity can't solve the problem of the lack of quality. The future of the citizen can be seriously destroyed because of the poor and corrupt educational system since education has crucial role in solving social problems such as: poverty and unemployment.

Promoting personal integrity, developing moral attitudes, increasing creativity, encouraging individuality and teaching pupils to chase the knowledge and focus on their interests could make a huge difference. The role of educational system should be creating conditions for

cultivating knowledge, skills and qualifications that will be synergic with needs of the labor market.

Second, what do the citizens to stop the corruption? In 2016 was made a video-serial of 5 episodes documentary movies called "Corruption in education". The documentary is recorded in Macedonia, Serbia, Croatia, Slovenia, Bosnia and Herzegovina, Bulgaria and Armenia and offers a look at the opinions and actions of students, professors, activists, organizations, as well as other prominent individuals for establishing quality and transparent education.⁷ It is disappointing the fact that students from this universities announced that they know there is corruption but they have never reported. Usually this happens when people don't trust the institutions or they are not encouraged to report about the crime. In this case strengthening citizens' demand for anti-corruption and empowering them to hold government accountable is a sustainable approach that helps to build mutual trust between citizens and government. For example, community monitoring initiatives have in some cases contributed to the detection of corruption, reduced leakages of funds, and improved the quantity and quality of public services.⁸ Empowering citizens can have a crucial role to stop and prevent corruption. Organizing conferences, debates, campaigns and other events can put this problem more on the spotlight of their everyday life. Journalists should take more active interest to analyze and explore the phenomenon of corruption and promote intolerance of the public towards corruption.

Finally, integration into the school curricula learning about human rights since primary school will improve the knowledge of their rights and self-respect. It's very important for pupils, students or citizens in general, to know their own rights in order to protect themselves.

⁷ Youth educational forum: "Corruption in Education: Definition and recognizing the corruption"; 26.02.2016; <http://www.radiomof.mk/video-korupcija-vo-obrazovanieto-definiranje-i-prepoznavanje-na-korupcijata/>

⁸Transparency International: "How to stop corruption:5 ingredients", available at:https://www.transparency.org/news/feature/how_to_stop_corruption_5_key_ingredients

Moreover, that enables them to be active participants in a democracy and fulfill their social responsibilities. Through the live people face with many problems and the best way to deal with them is to be informed about their rights in case someone sabotages them or gets something in a unfair way they will know how and who to ask for legal help. A person who knows their own rights won't stand back when there is injustice.

CONCLUSION

Corruption has been present in all societies through all human history in different forms and quantity. Unfortunately, this problem entails a number of other social and political problems. Over the past years, we have noted increasing attention to this problem on a global and national level by passing new acts and by organizing events that emphasize the negative sides of corruption. But, this problem is too complex and its devastating influence causes distrust towards the institutions, which means corruption leads to serious consequences not only in education, but also in all spheres of life. However, it is necessary for the authorities to take all measures for this phenomenon which creates erosion in the whole society to be suppressed. Additionally, as we mentioned addressing ethical principles, improving citizens' awareness and providing available information could significantly improve the situation.

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1.02 Review Article

The Academic Holistic Approach to Fight Corruption

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ABSTRACT

The object of this paper is the holistic approach to fight corruption, by focusing on creating well-structured anti-corruption education programs. The academic holistic approach offers the standardization of the education on corruption, legal research, courses on career development, encouragement of community and international educating activities on corruption. An integral part of academic education programs is the education on values, ethics, morals, behavior and personal integrity. The basic elements of anti-corruption education programs, researched on this paper, are the perception of information, the knowledge expand on identifying corruption, the strengthening of impersonal skills and the encouragement of the public to report corruption acts, based on a logical reasoning and the analysis of concrete facts. The academic holistic approach incorporates interactive methods of teaching that are relevant to the social groups they are created for, such are real

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legal cases analysis, moot courts, conferences and seminars. There are also innovative methods applied through technology tools like online games to understand corruption, e-learning platforms to expand the knowledge and anti-corruption research blogs by students. The tools and methods shared on this paper can be applied through any academic course and even to create profession-oriented trainings. The final objective is to encourage everyone to react and report corruption.

Key words: *academia, holistic approach, anti-corruption, education, interactive methods*

INTRODUCTION

Corruption is an act that is perceived as a wrong-doing by people, but still, it is hard to identify the phenomenon and social groups lack the understanding of the factors and types of corruption. The 'knowledge of law' on corruption and the knowledge of the sanctions applied, are not enough to raise awareness for the society to react against corruption, to report acts of corruption and to fight the criminal act. For these reasons and more, it becomes necessary and mandatory to deal with corruption issues not only by law enforcement, but also by educating the public and sharing practical information. The United Nations Convention Against Corruption also calls for action to make it easier for the people to engage in fighting corruption by different holistic methods, tools and means.

In this article is discussed the notion of the holistic approach to fight corruption, as a method to educate the public, by following certain steps, to reach the main objectives such are sharing knowledge and information on corruption acts, engaging the public to take action and report corruption, and building an anti-corruption culture.

The anti-corruption approach needs to be carefully designed and applied so it can effectively strengthen the reaction against corruption. Education is essential to develop an individual's personality. So, the educational programs against corruption do not focus only on the legal

approach, but they include necessary educational elements such as the teaching of values, the code of ethics, integrity, which make up the integral character of a person who reacts against corruption affairs.

The interactive method of teaching are designed to educate each social group based on its characteristics, so they can be incorporated even in a high-school curricula, as well as be part of corporations' trainings for their employees. These methods should also be innovative and that's why international organizations that fight corruption, aim to reach a wider public, worldwide, by taking advantage of the technology and creating mobile apps and online platforms where information on corruption is easily accessed by everyone.

The article concludes on a couple of recommendations on how to deliver an effective anti-corruption training, as well as on how to further the fight against corruption.

THE HOLISTIC APPROACH TO FIGHT CORRUPTION

Corruption is one of the most discussed and debated on phenomenon, but not every act, no matter how morally wrong, is in fact corruption. Thus the education is a must in fighting corruption, because even the best laws cannot reach the goal, if the society is not able, or informed enough to hold the state authorities responsible for their actions. There are many definitions of corruption, because it is one of those criminal acts which evolve with the society development, but Transparency International defines corruption as the abuse of entrusted power for private gain. This is a general definition, but it gives the essence of corruption actions. Then there is the United Nations Convention Against Corruption which aims to unify the legislations of the State Parties by emphasizing the different corruption acts, on different fields of life.

However, treating corruption as a legal problem and trying to solve it through law enforcement only, has not been proven to be efficient in the long run. The approach has failed because of 3 main reasons:

1. Corruption comes down to affecting economy and human development, not law enforcement.
2. Public officials, who have to obey and apply the law, are usually the ones on the receiving end of the affairs.

3. The public is not informed sufficiently, or not informed at all, on how corruption works, what corruption is and what tools they can access to report and fight corruption.

There is also a certain corruption mentality that 'clouds' the judgment. After all, we are human beings, who tend to biologically be egoistic, so we are always wishing for more than we already own, through the simplest way possible. The young people are most affected by this mentality because they witness how public officials, or even their friends who have 'connections', tend to get everything they want, in a blink of the eye, and it seems like their life is perfect.

Taking into account the above listed reasons, there raises the main issue: *How can we educate the public about corruption?* How can we approach specifically the young people who will be the next generation and teach them about corruption and the negative effects it has in the society, government, economy, etc.

The education system can no longer treat corruption as a legal issue, or share information just so for the 'knowledge of law'. It has to be taken another approach, a so called holistic approach.

The holistic approach is a method, to address corruption effectively, through the examination of public and private institutions and the corruption practices and policies in a certain country, not only to insure the transparency from the government, but also to inform and empower the media, businesses and academic institutions in the fight against corruption. This educational method is also on the focus of UNCAC, which in the article 13 "Participation of Society", urges State Parties to take action on developing concrete measures and practices to empower citizens and society groups not part of public sector to prevent and fight corruption, as well as raising the public awareness for the existence, cause, importance and impact of corruption. Some of the measures the State Parties can undertake are:

- Raise public awareness
- Enable public access to information
- Undertake informational activities for the public
- Develop educational programs, like anti-corruption academic curricula
 - Respect and promote the freedom of press and open data access

Education against corruption is not only an instrument to share information, but also an essential process to build the character, anti-

corruption values and moral consciousness on the fight against corruption. Moreover, education is a tool to expand the analytic skills to identify the problems and difficulties in a state level that are a factor of the rising level of corruption, as well as to identify and report the negative effects and the preventive measures.

Current school programs and academic institutions, aim to teach the youth the division between 'good' and 'bad', but for the change to take place, for the output to be a generation that does not tolerate criminal acts, the academia should aim to teach the moral, ethics and behavior. So, it should go beyond the traditional method of teaching through theoretical materials and incorporate the holistic approach to a major issue such as corruption, by teaching through interactive methods that engage the audience, raise awareness and call for action.

The main objectives of the holistic approach to anti-corruption, known otherwise as interactive methods of education, are:

1. Information on the phenomenon of corruption: the terminology, the causes and the consequences
2. Intolerance toward the corruption affairs
3. Introduction to the tools and means to fight corruption
4. Raise the standards of current academia programs, by including:
 - a) Values – democratic values, public awareness, responsibilities, etc
 - b) Skill strengthening – communication, information sharing, undertaking initiatives to report corruption, etc.

However, changing the academic institutions school programs and school system, it is not easy and do-able in a short amount of time. The holistic approach needs to be put into action by developing a whole plan of action, based on 3 main principles which lead the way to the full integration of interactive methods of teaching and reach the objectives of the anti-corruption education. These 3 principles are:

1. The notion of Corruption, for which, as we mentioned before, there is not a single, clear, precise definition, but taking into account that corruption is a phenomenon that thrives based on a national background, then each state can give its own full definition and apply the laws that best fit to its residents mentality.
2. Public awareness programs, which refer to public activities designed specifically to share knowledge and fight corruption, but these activities are not necessarily goal-oriented to engage

the audience to act upon criminal acts, by reporting corruption affairs for example.

3. Public education programs, which are similar to the awareness programs, but the education programs are specifically goal-oriented, because they are organized with practical outputs as objectives. These programs are designed to engage the public and call for action, by providing the tools to report corruption.

The final objective is not to share knowledge in depths, as that is applied for legal professions and the public does not need, or will not understand a lot of in-depth information; therefore the aim is to train the public to take actions through logical, fair reasoning, based on the information they have perceived.

THE ACADEMIC APPROACH AGAINST CORRUPTION THROUGH EDUCATIONAL PROGRAMS.

The Academic approach should not only be evaluated for the law schools, but it can integrate anti-corruption education programs starting from elementary school, high-schools and reach each university, and professional no matter the field they operate in. It is a no-minder that the programs will adapt according to the level of information the person learns, either he is a pupil, a freshman, or a student, plus the field he studies or works in. An economist, for example, should be trained on economic corruption issues related to taxes, budget, income declaration, etc.

The main problem when it comes to incorporate anti-corruption education programs is the fact that there are no enough professionals to teach correctly, or there is not enough time scheduled on a school program, to add another program, but both of the problems are easily solved by training the teachers and scheduling the anti-corruption education programs as specific whole courses, or integrated syllabus in another course. For the pupils of an elementary school, the anti-corruption education can be carried through theatrical plays, for which each pupil gets a role in a hypothetical situation. For the high-school students anti-corruption can be taught through theoretical materials on basic legal principles, as well as, through the undertaking of activities that engage the students to share their knowledge by conducting interviews on the street, or organizing competitions on the best anti-corruption research and articles, etc.

The interactive methods of teaching applied currently, mostly on the law school program, are seminars, conferences, street law, moot courts, real legal cases analyze and legal research.

The legal cases analyze implies different methods like group discussion, role play, compilation of legal documents, etc. The students study a real case of corruption and work on it under the supervision of their professor. The cases are typically 20-25 pages long and they share all the facts on the situation, a description of the event, followed by theoretical questions, additional information, different documents, photos, etc., a possible solution and an orientation by the supervising professor of the study case. The study of these kind of cases is designed to be conducted in the course of a week or fewer days, following these steps by the students: summarizing the main facts and details, assessing the facts and possible twists of the events, identifying the negative and positive sides of the given situations, a possible solution, writing a conclusion, and finally presenting the conclusions.

The Moot Court is a well-known method of teaching by designing a case of corruption. It may be even a real case, but often it is hypothetical as the students tend to reach for the real court decision. Similar to the analyze of the real legal cases, students have a schedule on which they get trained on how to study and analyze the case, and also how to represent the case at court. They take on different roles like that of the attorney, the prosecutor and the witness, but they do not reach into a final specific conclusion though, because each of the students will have to advocate the case depending on his role. On the last day of the moot court training the students will be assessed on how they present themselves, the case and their own conclusions, by acting out the case in front of a body of judges composed by the school's law professors or other legal professionals.

Conferences consist in a series of lessons and discussions, which can be held in a day, or in a couple of days, depending on the conference agenda and the volume of the papers presented by the participators. The speakers of the conference are usually professionals who have a long-time experience working on the field, university professors, other academics, and whoever is interested and has a broad knowledge on the thematic of the conference. Conferences are one of the best methods of teaching to train the professors and teachers who will teach anti-corruption to their students, following a train the trainer methodology. Conferences are also a good source of information for students of any

field who want to expand their knowledge, or take action by interacting with professionals or the organizations, participators at the conference.

Legal Research is carried on through school assignments, student participation in competitions, a conference report, etc. This holistic approach trains students on the research skills to creatively look for the information that is essential but also hard to find. The students have the opportunity to reflect upon their own experiences, and they learn how to best educate their audience, how to interpret and write a legal research article.

Street Law is another interactive method of teaching that consist on taking the students out of their class walls, into the environment of other institutions, for example high-schools. The university students work on anti-corruption thematic, in groups, and find the best way to present the subject in front of an audience that knows nothing about it, or knows very little on corruption. This method has proven to be effective on training simultaneously the university students, usually law students, who walk on the shoes of a teacher for one day, and the high-school students who participate in a new kind of activity which gives them the opportunity to ask any question they might find disturbing or confusing. Einstein has cleverly said “If you can’t explain it to a six year old, you don’t understand it yourself.”, consequently the law students test themselves on the knowledge and fill their own gaps when they carry on the discussion after the initial presentation.

THE INNOVATIVE HOLISTIC APPROACH TO ANTI-CORRUPTION EDUCATION

The simplest basic criteria applied for a fair law are: clarity, coherency and prediction. A law has to be understood by the average men. The law has to be coherent, which means that it has to cover the current issues in the society. Lastly the average men should be able to understand how the law is to be applied and what are the sanctions on a given criminal offense. The second criteria, coherency, is the one that makes it hard for corruption to be defined, but it is also the one that asks for innovative methodologies and holistic approaches, because law enforcement alone can not curb corruption.

Apart from the holistic approaches mentioned above, there are also innovative methods of teaching, by taking advantage of the technology

evolution. These methods include blogging, mobile apps to report corruption, e-learning, and online games.

Blogging is the kind of platform that anyone can have access to or be the owner of. Taking into account that half the population is online now, blogging is one of the best ways to catch the eye of the public, especially the youth, that perceives almost all of the information and news through a mobile phone or network. The university, or any other academic institution, can build its own online platform, in order for the published articles to be edited, the shared information to be true and relevant. If it is possible and effective, it can also be given inside access to any student who wishes to participate on the maintaining of the blog, attracting readers or carrying through a legal research. The Legal Clinic can have its own site, administrated by the Clinic's professors and two or three students who engage in the role of assistants, where short essays by the students can be published on the site, or well-written legal experts' opinions on corruption, or any other project that the Legal Clinic has.

Mobile apps are the next step to fight corruption. Apps are acting as a tool to report corruption, by simplifying the reporting with build-in tables where anyone who wishes to file a complain can easily fill in the blanket the address, institution, incident, and any other event the person wishes to share. Albania has build a mobile app – tool to fight corruption – *“Komisariati Dixhital”* (The Digital Commissioner), an app that can be downloaded in any kind of smartphone. This app was built in the light of the justice reform taking place in Albania, which fundamental objective is fighting corruption and encourage the public to report acts of corruption, by making it easier and safer to file a complain.

E-Learning is an innovative holistic approach, based also on building an online platform. Unlike blogs, e-online is meant to be an online platform, accessed for free or by payment, where everyone can access videos of professionals or experts sharing their knowledge. Students or any other interested party can also follow the online seminars, held on a specific hour, when hundreds of person log on at the same time, from different places, and access the same teaching material, by interacting through online tools with their teacher. This kind of method is criticized for the lack of human contact and forming real relationships, but it can not be beaten for the simplicity and the fact that everyone can have access when they can, wherever they are, even though they can not be at the very place where the event is held.

Online games, accessed on a computer or by mobile apps, are also an interesting innovative holistic approach. The games are designed to make the player answer to questions for a case, deliver an opinion or an analyze based on the given facts, etc. Other online games that aim to fight corruption are built on different levels, from understanding the notion of corruption, to identifying corruption affairs, to the last level of reporting corruption and raising awareness to everyone else around the player, family, friends and even strangers.

CONCLUSION AND RECOMMENDATIONS

The evolvement of the society, the mentality and the social demands, asks for innovative methods of dealing with criminal acts, such is corruption, that has turned into a problematic, hard to gasp and curb phenomenon. No matter how well-applied a law is, it can not resolve legal issues alone, because it has to be applied in a certain background, in a certain society, that first needs to be correctly informed and educated on corruption, so it can react against it.

The anti-corruption education is a dynamic process that asks for the engagement of each person individually and the society in general, based upon the information they perceive through the education programs. It educates the public and the youth, not only on the matter of good or bad behavior, but on values, moral and ethics, as they are fundamental to build strong responsible personalities.

There is an absence of a well-built literature to apply the holistic approach on the fight against corruption, as most of these methods are still on the early stages, so each academic university has to build its own program specific-context related and assessed after the concrete audience needs.

Some of the recommendations that come up concluding this article are:

- The development of anti-corruption education programs as part of any academic institution's program and curricula.
- Tools and means to fight corruption relevant to the social groups they are built for, taking into account specific needs for pupils, students, society, employees of a certain institution, etc.

- The exchange of new information and the publication of the results of the integration of the holistic approach methods to school programs, for the best methods to be applied even in other institutions and state programs.

In the end, the professors and professionals that train the students and the public on anti-corruption and the tools to fight corruption, are not obliged to apply each of the interactive methods of teaching, be it the innovative technology-oriented holistic approach or the educational programs incorporated on the anti-corruption courses and syllabuses. They can choose the methods that fit best to their way of teaching and their own approach to corruption issues, taking into account the audience and the goals to be reached. The final objective is to raise awareness, shape a strong ethic to not accept criminal acts of corruption and report any situation that can be identified as corruption.

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1.01 Original Scientific Article

The Central Elements of the Whistleblowing Legislations from Comparative Perspective

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ABSTRACT

In this paper, the focal subject of interest is the whistleblowing legislation method; precisely the elements each legislation needs to cover and elaborate in a clear, precise and detailed manner. That is *conditio sine qua non*, a prerequisite for efficient protection from corruption and human rights violations and deprivation. Without solid legal basis, the whistleblowers would not be adequately protected and this system would not be implemented or give expected results. The corruption is a serious and complex phenomenon that requires multifaceted methodological approach for fight against. It is especially met in areas of public interest, where education represents a part of.

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The author lists and explains the central elements that whistleblowing legislation has to cover, giving individual referral to several countries and their respective legal solutions. The researches proved that since the system is complex, a special law would be the best regulating method, but not necessarily. Namely, ill practice is noted in some of the countries assessed to have best legislation; and good practice and legislation has been detected in countries that regulate this issue not in a separate, but another legal act, usually the anti-corruption one. Further, the author elaborates the Macedonian legislation - both the law and the by-laws, concluding that it has all the necessary elements, but unfortunately still has not been implemented. In the concluding remarks, the author gives directions regarding the above-mentioned elements as well as recommendations for the necessary trainings that need to be performed for successful whistleblowers protection in practice.

Key words: whistleblower, corruption, legislation, reporting, protection.

INTRODUCTION

The whistleblowing is a new mechanism, i.e. a specific tool expected to give better results in the fight against crime and corruption (Rahardjo, 2017). In the last decades we face a situation when the fight against crime is not on a satisfactory level from official authorities due to the insufficient resources of the criminal justice system and losing the “speed in the race” – crime develops faster than the criminal justice system actors can keep the path with. Very often, and this is common for the organized crime, there is inclusion of state officials in corruptive activities.

In a situation as mentioned above, it is important to give individual contribution to the process. Persons who are involved in certain processes and decision making are the first to notice illegal or unethical activities. Also persons who should be entitled with a certain right are

those who first register the wrongdoing personally especially in case they are deprived of the respective right (Baltaci & Balci, 2017).

Therefore, whistleblowing is very important for self-protection, however, it is not simple and easy, because, although the intentions of the legislators are the opposite, the whistleblowers are becoming a vulnerable category (Pecoraro, 2016) and very often they suffer unwanted consequences in practice, so just remain silent (Zakaria, 2015).

THE WHISTLEBLOWING AND THE CORRUPTION IN HIGHER EDUCATION

Education, in general, represents an area of public interest. It has, vis a vis lower levels of education, a direct and significant role in the development of science and the progress of the state and society in general. Therefore, all processes in higher education should be an example and a guideline for the corresponding processes at a lower level. The policy of zero tolerance of corruption in the sphere of higher education is a solid basis for its suppression and on a lower level.

The term Corruption has Latin origin, which in essence means spoiling, bribing (Камбовски & Тупанчески, 2011). It is a phenomenon where a person who is in a special position - usually of power, broad competencies, discretionary powers, etc., takes advantage of it in order to achieve a certain benefit (Оровчанец- Аранѓеловиќ & Мартинова, 2017). There are several types, levels and/or stages of corruption: petty, systemic, individual, corporate, administrative, political etc. Several factors like: the absence of a clear definition, the different perspectives and views and the different levels of acceptance lead to different perceptions. Are perception indexes real indicator? As we all know, in a society where corruption is widely accepted, young people tend to escape responsibility and corruption becomes a state of mind and the fight against it becomes very difficult (Lakson, 2017).

Corruption free higher education primarily requires:

- Change of mentality (especially in the countries with high corruption index, where usually it is widely accepted and practiced);

- Awareness raising (about its individual and global negative impact - violation of individual rights, decrease of the state capacities in vital areas at all levels etc.);
- Proper education (about what are the rules of professional conduct, what are legal competences and what constitutes overstepping or abuse of authority);
- Ethics education.

The ethology of corruption is difficult for determination, but it is considered that the low level of democracy, political instability, poverty, low level and quality of education, extensive administration, poorly protected property rights, low level of economic and media freedoms, history and corruptive environment are among the factors contributing to it (MacDonald & Majeed, 2011). The corruptive actions are contrary to equality, justice and the need for the well-being of all in a society. Hence, all acts of corruption violate the public interest, regardless of whether they are contrary to criminal norms, labor or other legal norms, or only to customary or ethical (moral) rules! Some types of corruption represent criminal offenses or misdemeanors, others are not criminally punishable, but are subject to disciplinary violations, violations of ethics in the work, etc.

In the area of higher education, corruption may manifest itself in different forms and occasions: when enrolling at faculty (admission exams, more favorable assessment of a favored candidate); "selling diplomas" which constitutes a serious crime; compulsory purchase of textbooks and privileges for students who will do that purchase; in cases of new employments, in public procurement procedures etc. These wrongdoings could be best detected, prevented and sanctioned by the use of the whistleblowing mechanism.

THE CENTRAL ELEMENTS OF THE WHISTLEBLOWING LEGISLATION

The whistleblowing protection is a very complex matter and as mentioned before it requires a whole system of procedures and institutions for its successful implementation. Although it may be useful for reporting a wide range of unlawful or unethical actions and different types of crime, it is usually used for reporting corruptive actions. Therefore it is considered as a significant tool for fight against corruption.

For comprehensiveness of whistleblowing legislation, many elements are relevant and essential for consideration (Transparency International, 2013). The following terms/elements need to be particularly addressed as well as elaborated the respective legal acts:

1. **Definition of whistleblowing.** The term whistleblowing signifies an action, but usually another formal term is used in the legislations. For example, in the Macedonian legislation is used the term meaning “protected reporting”. “Reporting” is also used in other legislations – Slovenian, for example. It is usually connected to violations of public interest.
2. **Definition of whistleblower.** Many people do not know or understand what this term stands for. There is a variety of terms used in different languages and many of them have negative connotation. A clear definition set out in a law, will contribute to clearance of the true meaning of this role and will make a distinction of the negative roles that may have been met in the past of some countries. It is usually connected to the whistleblowing definition in the countries where it is regulated. In that direction, in Slovenia it is used a term meaning - a person who reports, in Macedonia – a person who points out, who reports, in France – a person who alerts, discloses crime, offence, violation, danger etc.
3. **Determination of the recipient of the whistleblowers report.** Depending on the type of reporting, there needs to be determined who will receive and decide on further actions about the reports/alerts. Usually, there are persons especially appointed for this: appointed referents, persons, but also supervisors, employers (as in France or Macedonia, for example), then on a higher level, they may be judicial, professional or administrative bodies.
4. **Existence of different (levels of) whistleblowing mechanisms.** The usual types of reporting mechanisms are: the internal reporting, the external reporting and the public reporting mechanism. In the regular cases, they are envisaged to be implemented in a chronological way. For example, an employee reports a violation of his right done by a superior to the appointed person in the institution. Then the appointed person might inform about that violation the manager of the institution who would undertake appropriate measures for protection of the whistleblower regarding his right. In case the

manager is the person the report is against to, the external reporting comes as a possibility where administrative or professional institutions may protect the person whose right has been violated. And only under strict circumstances where the previously mentioned mechanisms could prove inefficient, the public reporting is allowed.

5. **Protection of confidentiality and the issue of anonymous reports acceptance.** The whistleblower needs to be protected from the initial moments of the procedure from possible revenge and retaliation. Therefore it is a rule that his/her identity will be known only to the appointed person who received the report and it will not be disclosed unless necessary (in judicial procedure, for example), but he/she should be informed about that in advance. There is a discussion whether anonymous reports should be accepted through this system. Anonymous criminal reports are known to be allowed in different legislations for reporting crimes to the public prosecution, but as a whistleblowing mechanism there are concerns that false accusations may be performed through anonymous actions.
6. **Misguided reporting treatment.** There is a possibility that the whistleblower believes that there is a danger or violation perpetrated, but in fact that it is simply not the case. As it is not expected all the people to be literate in (criminal) law, there is a possibility of mistakes or false beliefs that the actions reported by the whistleblowers are really against the law. Therefore, the whistleblowers should not be sentenced or held liable for the reporting unless it is evidently and clearly that the whistleblower abused this mechanism on purpose. In fact, the system is created in a way that will not allow innocent persons be accused or their reputation be violated, since the initial stage is the internal reporting that will be assessed and rejected in case it is misguided. Not holding liable the whistleblower that reports in good faith, even when it is misguided is important, because it releases the possible whistleblowers of the fear that they need to be good lawyers when reporting wrongdoings (even if that is not their profession) in order to avoid prosecution.
7. **Sanctioning of the retaliation.** Although confidentiality in the process and the protection of the whistleblower's identity is a rule, there is a possibility that the indicted person understands

his/her identity and undertakes revenge/retaliation activities. This is also essential to be envisaged in the legislation and measures against it to be provided.

8. **Protection of the whistleblowers and their members of family and close persons.** Whistleblowers are entitled to protection of their identity, protection from violations of their labor and other rights, they might be even included in special protection programs (like, for example, the Witness Protection Program in Macedonia, for reporting about serious crimes) etc. They are also entitled to damages repair. But very often, these violations of rights may be directed not to the whistleblower himself, but to his child, parent, partner, etc. For that reason, the legislation on whistleblowing needs to cover a wider protection for these persons as well.

In recent researches performed by non-governmental organizations, different initiatives etc. there are several standards/criteria set out to examine European legislations. For example, the “Blueprint for Free Speech” sets out the following standards: 1. Specific whistleblower protection provisions for employees in public and private sectors. 2. A full range of disclosure channels: internal, regulatory, public. 3. Protection from all types of retaliation. 4. A full range of retaliation protection mechanisms. 5. A full range of relief types and mechanisms. 6. Immunity from prosecution for disclosing sensitive information. 7. Penalties for whistleblower retaliation and other mistreatment. 8. Appointment of a designated whistleblower agency. 9. Transparent administration and data (Worth, Dreyfus & Hanley, 2018).

As we can note all of these criteria represent themselves some of the basic elements or are connected to them regarding whistleblowing laws.

WHISTLEBLOWING LEGISLATIONS – COMPARATIVE PERSPECTIVE

When we analyze the essence, nature and practice of whistleblowing, we may notice that the countries representing the Common Law System have longer experience than the Civil law System countries that are facing and developing this mechanism in the last decade (Loyens & Vandekerckhove, 2018). That is to say, most of the European countries until recently did not have explicit legislation in respect of whistleblowers protection.

For example, only about five years ago a small number of countries regulated this mechanism. Namely, according to the Transparency International Report “Whistleblowing in Europe – Legal Protections for the Whistleblowers in the EU”, Luxembourg, Romania, Slovenia and United Kingdom were the only countries in Europe that had comprehensive provisions and procedures for whistleblowers in public and private sector. Austria, Belgium, France, Germany, Italy, Netherlands and Sweden were among the countries having only partial provisions regarding whistleblowers protection and poor legal basis was noted in Finland, Spain, Portugal, Greece, Bulgaria etc. (Transparency International, 2013).

It is not a rule that a special law gives always a better protection. Some countries cover this issue in their anti-corruption acts in a detailed manner.

Slovenia

As stated above, Slovenia was assessed as a country with comprehensive legislation. There is no special whistleblowing law in this country, but the provisions are part of the Integrity and Prevention of Corruption Act adopted in 2010 (Blueprint for Free Speech, Slovenia, 2018). This legislative piece covers many of the elements listed above, determines the whistleblowing, includes a wide definition of illegal and unethical actions that a whistleblower can report; also envisages the internal and external reporting; covers the confidentiality issue; the protection of whistleblowers includes remedies in case of retaliation and also sanctions for those performing retaliation against whistleblowers.

The cases of whistleblowing in Slovenia in 2013 reached 2300 and in 2015 there were 1575 cases. Up to 90% of the cases were resolved and many whistleblowers identities were protected. However, the independence of the State Commission has been questioned in many cases (Transparency International, 2013).

Macedonia

Macedonia has a separate legislative act - the Law on Protection of Whistleblowers from 2015, last amended in 2018, but unfortunately there is poor or no implementation. According to the reports of the State Anti-Corruption Commission who is competent to receive reports from institutions regarding whistleblowing, no cases have been officially reported until the beginning of 2018. A detailed elaboration of the Macedonian whistleblowing legislation is given in a separate title in this article.

France

There is a new regulation covering this matter in a more detailed manner – the so called Sapin II Act on transparency, fighting corruption and economic modernization. In this act, the whistleblowers are defined as persons “disclosing or reporting, alerting in good faith, a crime, an offence, a violation of an international commitment, a law or regulation infringement, a threat or an important prejudice to the general interest he or she became aware of”.² It also specifies the “alert recipients”, the duties of the companies having more than 50 employees for internal whistleblowing mechanism implementation, protection of whistleblowers unless acting in bad faith. The French legislation also allows anonymous alerts, although it represents enhanced risk for false accusations, and therefore precautionary measures are advised to be taken: seriousness of facts checked and careful handling of the alerts as well as examining the opportunity of processing furtherly.

Previous experiences (before enacting of Sapin II Act) have shown that the whistleblowers in France in past years have been subject to

² Whistleblowing – a new regulation in France in 2018, available at: <http://www.osborneclarke.com/insights/whistleblowing-a-new-regulation-in-france-in-january-2018/>

retaliation and poor judicial protection. Namely, there are cases when civil servants who reported wrongdoings have been dismissed or compelled to retire (Transparency International, 2013).

Croatia

Croatia is known for having a high profile corruption cases lately, but there is no law or provisions on whistleblowers protection. In 2014 European Commission stated that Croatia does not provide reliable whistleblower protections, even though the Labor Law and the Criminal Law have elements of protection, but that is not systematic nor satisfactory (Blueprint for Free Speech, Croatia, 2018).

Germany

There is no special law, or whistleblowers protection provisions in other acts in the German legislation. Also in the past there was no appropriate protection in practice in the cases when people reported wrongdoings, especially at their employers, because the German court used to rule not in favor of whistleblowers (Blueprint for Free Speech, Germany, 2018). The reporters of wrongdoings were usually fired from work. Things have slightly improved after the case of Brigitte Heinisch, who was a geriatric nurse that lost her job after reporting deprived patient care at a Vivantes nursing home in Berlin. The case took place in 2005, when she first tried to report internally and was fired from work. After she lost her case at all instances of the domestic judicial system, she appealed to the European Court of Human Rights- ECtHR³. The Court judgement is from 2012 and the ECtHR found violation of art. 10 of European Convention of Human Rights.

After this, Germany still has no appropriate legislation or ongoing debate and only public employees have a right to report corruption cases and under strict circumstances enjoy legal protection from retaliation.

³ Case of HEINISCH v. GERMANY, Application no. 28274/08, available at: <https://hudoc.echr.coe.int/>

Luxembourg

This is one of the few states that even some years ago were assessed as having comprehensive legal protection for whistleblowers (Transparency International, 2013). Law on Strengthening the Means to Fight Corruption has been adopted in 2011 providing protection for whistleblowers from public and private sector, several disclosing (reporting) mechanisms have been elaborated and protection from retaliation has also been part of the abovementioned Law. As to the legislation, it was determined as one of the strongest and the only weakness detected was not envisaging protected public reporting. But in practice, unfortunately it has not been adequately applied. Namely, in the famous “LuxLeaks” case, the whistleblowers did not get their legally granted protection but got criminal convictions instead (Blueprint for Free Speech, Luxembourg, 2018).

CASE OF MACEDONIA: LAW ON PROTECTION OF WHISTLEBLOWERS

The law on Protection of Whistleblowers of Macedonia was adopted in 2015. Several by-laws were prepared and adopted in 2016 and the latest amendments date from early 2018.

The main objective of the Law was to introduce systemic protection of persons who, for the purpose of protection of the public interest, have reported and thus alarmed that the offense or other illegal or unethical treatment has been committed or is likely to be committed in near future. This was a new modern instrument in the fight against corruption in the Republic of Macedonia.

The Macedonian legislation on protection of whistleblowers consists of the following legal acts:

- Law on Protection of Whistleblowers, "Official Gazette of the Republic of Macedonia" No.196 of 10 November 2015.
- Law on Amending the Law on Protection of Whistleblowers, "Official Gazette of the Republic of Macedonia" no. 35 of February 23, 2018.

- Rulebook on protected internal reporting in the institutions in the public sector, "Official Gazette of the Republic of Macedonia" no. 46 of March 8, 2016.
- Rulebook on protected external reporting, "Official Gazette of the Republic of Macedonia" no. 46 of March 8, 2016.
- Rulebook on guidelines for adopting internal acts for protected internal reporting in the legal entity in the private sector, "Official Gazette of the Republic of Macedonia" no. 46 of March 8, 2016.

The application of the Law and Rulebooks started in 2016. The main issue regulated by the Law is the protected reporting in the public and private sectors. So, Macedonian law, for whistleblowing uses the term protected reporting.

The Public interest in this Law is defined as protection of the fundamental freedoms and rights of the individual and citizen recognized by the international agreements and the Constitution of the Republic of Macedonia, prevention of health, defense and security, protection of the environment and nature, protection of property and freedom of the market and entrepreneurship, rule of law and prevention of crime and corruption.

But who can be a whistleblower in a higher education institution, for example, according to the Macedonian Law?

In the role of whistleblower can find himself/herself a student, an employed person, a person engaged, etc., who will report to a competent body or institution through a person authorized to receive such reports - suspicion or knowledge of an action that is not allowed, is punishable or contrary to the law in general or unethical with which the public interest is violated or threatened.

According to article 2, para. 3, a whistleblower is:

- a person who has an employment agreement for an undetermined or determined period of time in the institution/legal entity where he/she files a report;
- employment candidate, candidate for volunteer, or intern at the institution/legal entity for which he/she gives a report;
- a person who is either a volunteer or an intern at the institution/legal entity he/she is reporting about;

- a person that on any ground is either in a business or other relationship of cooperation;
- a person who, on any ground, is or was engaged to carry out a job;
- a person who has used or uses services in the respective institution.

By doing whistleblowing, this person performs protected reporting with good intent. There is a principle of presumption of the good intent and absence of the duty for the whistleblower to prove it.

Protected reporting types envisaged in the Law indicate a particular "chronology" not only "typology". Namely, protected reporting is carried out in several forms/types:

- Protected internal reporting;
- protected external reporting;
- Protected public reporting.

Protected internal reporting is what is done in the institution/legal entity for which the whistleblower has suspicion or knowledge that it has been committed, carried out or will be carried out criminal offense or unethical or otherwise unlawful or illicit acting in violation or endangering the public interest.

Protected external reporting is what the whistleblower reports towards an "external" institution like the Ministry of interior, the public prosecutor, the State Anti-Corruption Commission, the Ombudsman or other competent institutions.

Protected public reporting means disclosure of relevant knowledge/claims of wrongdoings in public. It is permitted under certain conditions. The protection of personal data and the privacy of the reported persons is not excluded, on the contrary, it exists. The whistleblower that performs protected public disclosure is not entitled to protection as provided for in other forms of reporting, if the legislative conditions are not met.

Analysis of the by-laws of the Law on Protection of whistleblowers

There are several by-laws that are meant to operationalize the legal provisions for easier implementation. According to the Rulebook on protected internal reporting in institutions in the public sector, the manager of the institution appoints one or more authorized persons for receiving applications from whistleblowers. The conditions that need to be met in respect of education, working experience etc. are determined in a detailed manner.

The manager is obliged to provide the authorized person with space and proper equipment for work: work space suitable for reception of persons, a separate computer provided with a user name and password created by the authorized person and known only to him/her, with a separate internet connection and a special electronic mailbox with a user name and password created by the authorized person and known only to him/her, separate safe mailbox, separate telephone line, and other equipment for the application of technical and organizational measures for protection of personal and other data etc. The manner of performing of a reporting may be in written form personally delivered to the authorized person, through a special postal or electronic mailbox or verbally at the authorized person's office.

Upon receiving of the report, the authorized person assesses the content of the reporting - whether it is logical and reasonable, whether it is made in accordance with the Law on Protection of whistleblowers and whether it contains sufficient elements to be able to act upon it.

The authorized person shall bring conclusions for further action on the report and undertake measures for acting, such as informing the manager of the institution. If the allegations from the content of the application are directly or indirectly directed to the manager, the application is forwarded to the competent institution in accordance with the law (external institution).

In the case of a reporting for which another institution is authorized to act, the authorized person is obliged to forward it to the competent institution at the latest within 8 days.

Whistleblower's protection

The Law on Protection of whistleblowers guarantees the protection of the identity of the whistleblower. It is forbidden to uncover or enable uncovering of the identity of the whistleblower without his consent. The authorized person for receiving reports from whistleblowers is obliged to protect the data that can reveal the identity of the whistleblower. If during the procedure it becomes necessary to disclose the identity of the whistleblower, the authorized person is obliged to notify him/her thereof before revealing his/her identity. Also data and information about the report cannot be disclosed to the person who is indicated in the whistleblowers reporting.

Moreover, according to the Macedonian legislation, protection is foreseen from occurrence of harmful actions due to the performed protected internal, external or public reporting against the whistleblower from any kind of violation of the rights, against determining responsibility for whistleblowing, sanction, termination of employment, suspension of the position, deployment of another job that is less favorable, discrimination or harmful act or danger. The abovementioned protection should be provided by the institution/legal entity where the registration of the report is done by taking specific actions in order to prevent violation of employment or other rights and refrain from actions that violate or endanger some of the rights of the whistleblower.

If the protection is not provided, the whistleblower informs the State Anti-Corruption Commission, the Ombudsman, the Inspection Council, the Ministry of Interior or the Public Prosecutor's Office, who will take appropriate measures upon the request of the whistleblower in accordance with their competencies. These institutions shall request notification from the institution/legal entity that did not take protective measures, of any kind of violation of the rights of the whistleblower or persons close to him due to the performed protected reporting, which is obligatory without delay and at the latest within 8 days should submit a notification.

If it is concluded that the institution/legal entity has violated some rights of the whistleblower or a close person to him, the institutions address the competent authorities with a written request for immediate undertaking measures to protect the whistleblower by terminating the activities or eliminating the omissions that violate the rights of the

whistleblower and they shall immediately notify the whistleblower thereof. If, despite the undertaken actions, the violation of the right of the whistleblower or a close person continues, the institutions immediately and no later than 8 days, shall raise initiative for a criminal prosecution procedure against the responsible person of the institution/legal entity in the private sector or initiative for a procedure before the competent bodies for dismissal, deployment, replacement or application of other measures of responsibility of elected or appointed persons, officials or responsible persons.

The whistleblower has also the right to court protection and compensation for damages that may occur due to the protected reporting.

CONCLUSIONS

The whistleblowing legislations evolve significantly in the last decade. That is mainly due to the inefficiency of the system of criminal justice to provide results and an effective battle against the corruption and organized crime. Although the whistleblowing have proved to be not only last, but also the only way to report wrongdoings in some cases, in the countries representing civil law tradition, the whole concept had been adversely accepted and in some countries the protection given to the whistleblowers has not been sufficient.

Since it is about a relatively new concept requiring a complex approach for the whistleblowers protection, it requires a whole system well set up not only in legislation but also in terms of building capacities for its full effectiveness.

However, the solid legislation is a prerequisite for successful application of this tool and the central elements should be appropriately addressed.

As mentioned above, the comprehensive legal system on whistleblowers protection needs to cover several issues: First, there is a need of clear definition of the whistleblowing, what it consists of and what actions represent a violation of the public interest, since the reporting of wrongdoings against public interest is in the central description of this concept. The definition of the term whistleblower follows as well as determination of the circle of persons who can find

themselves in this role. Further, there is a need for existence of different reporting mechanisms provided by law. Therefore, we meet in the legislations the so-called internal reporting, then the external and finally, the public reporting that has the highest potential of human rights violation and therefore a whistleblower may be protected for public reporting only under strict conditions. The latter – different reporting mechanisms - implies multiplicity of authorities to be competent to undertake actions upon reporting. This is also needed in order to have alternative and to avoid the institutions involved in the unlawful action to decide in a conflict of interest case. Another important issue is the one of anonymous alerts and confidentiality protection of the whistleblower.

Legislations also need to envisage sanctioning of the retaliation that is maybe the most important thing to give potential whistleblowers feeling of security and safety from possible revenge. But also a wider judicial protection should be envisaged, not only for the whistleblowers but also for their members of the family, close persons etc.

At the end it is important to stress that strong and intensive training activities need to be performed in all the countries enacting whistleblowing legislation in order the subjects of this system, the appointed persons and potential whistleblowers to develop skills and knowledge, respectively, how to give/receive efficient protection and give their own contribution to the fight against the corruption and crime.

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1.01 Original Scientific Article

Corruption in the Central and Local Public Administration in Macedonia: Analysis and Anticipation

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ABSTRACT

The goal of this paper is to analyze the corruption in the central and local public administration in Macedonia from the period of independence of the state until today, but also to anticipate the future regarding this problematic issue.

The corruption in Macedonia like a phenomenon is not only an acute problem, but a system one, which is very difficult for resolving, and even for reducing. This is due to many reasons and determinants, like: the communist “heritage” from the past, the dysfunctional

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transformation of the administration, the lack of appropriate reforms, but also to the mentality of the people.

The main methods which will be used in this paper will be the historical method, descriptive method, method of content analysis and comparative method. Using the reports from the relevant institutions and organizations, like European Commission, OSCE, United Nations etc., we will try to scan the state with the corruption in central and local administration in Macedonia, to identify the main problems, but also to suggest some solutions.

Key words: *administration, corruption, central, local*

INTRODUCTION

The corruption in the public administration in Macedonia, either in the central or local one, is not a new phenomenon. It is a systemic problem that has been generated since the time of the Socialist Republic of Macedonia, and it is deepened and perfected in the era of independent Republic of Macedonia (after the dissolution of the Socialist Federal Republic of Yugoslavia), from 1991 to the present. Although a number of measures and activities have been undertaken to suppress this phenomenon, but also to prevent and channel it, no optimal instruments and mechanisms have been found that will deliver concrete and tangible results in fighting corruption in the public administration.

What is characteristic of the Republic of Macedonia in relation to the public administration is the relatively solid normative coverage of legal acts in the sphere of corruption in the public administration (especially after the adoption of the first Strategy for public administration reform, in 1999, but also indirectly related to the activities under the Stabilization and Association Process as an initial impulse in the process of accession of the Republic of Macedonia towards the European Union).

There is also a huge variety of external forms of corruption control in the Macedonian administration by a number of international

organizations, that is, from the relevant institutions, agencies and bodies in charge of monitoring the situation of corruption in the developing countries, such as the European Union, Council of Europe, OSCE, etc. All of them through various regular and periodic reports, surveys, analyzes and scans not only point to the acute and chronic problems of corruption in the public administration in the Republic of Macedonia, but they initiate and give specific directions, measures, actions and steps to tackle the problem of corruption.

However, the problem of the absence of concrete and visible results and effects lies in several critical points that are an immanent part of the Macedonian public administration. These are the demotivation of the employees in the public administration due to the relatively low monthly income and the small possibilities for vertical advancement in the administrative hierarchy, the absence of strict control by the competent institutions in the state (at central and local level), the mentality of the officials that corresponds with the mentality of the population in Macedonia (the problem of nepotism, cronyism, indirect i.e. implicit dependence of some people from others), political influences and pressures that are present everyday in the work of the administration, etc. All these parameters directly or indirectly nourish corruption in the administration in Macedonia, which occurs in various forms and intensities, but in any case violates the international image and the credibility of the Republic of Macedonia, and considering the strategic determinations for the country's membership in the European Union and NATO, this situation must be changed not only because of the criteria and standards imposed by the international organizations and entities for membership of the Republic of Macedonia, but also because of the welfare of the state itself and its citizens.

Without intention to discredit or marginalize the proposed measures for reducing corruption in the public administration in the Republic of Macedonia, at the end of the paper we will give our modest contribution by proposing some new modalities and tools for dealing with administrative corruption at central and local level, induced from international and domestic theoretical and empirical research, hoping that they will be accepted and implemented by the concerned 'protagonists in system', in order to reduce the corrupt practices and actions in the administration in the Republic of Macedonia.

CONCEPT AND DEFINITION OF CORRUPTION AND PUBLIC ADMINISTRATION

In countries where corruption is widespread, people tend to quickly attribute anything that goes wrong to corruption: even a failed application for a job, a lost court case or a bad exam result. In each of these cases, corruption might have happened. Equally though, the outcomes might have been the result of personal failure, mismanagement, incompetence, failure of a civil servant to understand the spirit and letter of a law, regulation or rule, or imperfect procedures; any of these can create the impression of corruption. There can be a host of situations why a situation played out the way it did, and they may have nothing to do with corruption. Corruption can be defined through specific angles: it can be seen through the lens of philosophy, through a moral – ethical prism, or as part of an economic school of thought. All of these angles have shaped the international legal consensus of corruption that is now laid out in the major international legal instruments, as well as in national legislation of many countries (Council of Europe, 2015).

Corruption is a multifaceted phenomenon which affects many areas and falls within the purview of various thematic, such as politics, political party funding, transparency in decision-making, lobbying, economy, organized crime, money laundering, trafficking in human beings, public health, sports, environment, natural resources, media, gender equality, and so on (Parliamentary Assembly of the Council of Europe, 2014).

The corruption segment in the public administration is the substantive point of reference for our work, so the definition of the public administration in the Republic of Macedonia, will be followed by analysis of the situation with corruption at the central and local level.

The notion of administration (public administration, state administration, municipal administration, private administration) is present daily in the citizens' real life and in communications with the authorities of the state government (administration) and other constraints.

The concept of administration can be defined from two aspects: administration in a functional and organizational sense, which requires an explanation of both aspects.

Defining the administration in a functional or material sense is actually an answer to the question - what the public administration is doing. The answer is that manages public affairs. For example, public works are generally useful things or goods that are useful and necessary for all citizens, for the whole society.

When using the term 'organizational' we mean for an administrative body, an administrative organization. Thus, the administration, in its second, organizational meaning, is a set of bodies or institutions entrusted with the management of public affairs. These institutions can be public (state, local self-government units), but also private (when they are entrusted with public authorizations).

Public administration does not cover only the state administration bodies, but also the local authorities, institutions and organizations (public services), private entities with public authorizations, the non-governmental sector in the framework of performing public activities.

So, the system of public administration, by definition means and constitutes the central core of the state administration (civil service) in the three branches of government (legislative, executive and judicial), including the municipal administration, while the administration of the activities of the public interest is covered by the broader notion of public administration.

The public administration from the organizational / formal aspect (broadest sense) covers:

- state administration - ministries, independent bodies of state administration, administrative bodies and administrative organizations;
- local self-government - mayor, council of the city / municipality;
- public services - institutions of education, health, science, culture (hospitals, schools, faculties, kindergartens, retirement homes, theaters, cinemas);
- funds - health, pension, disability, water, roads, forests ...;
- public enterprises - in the area of transport, water supply, railways, communal hygiene, urbanism, forests, waters, airports ...;
- trade companies with public authorizations - EVN, Telecom, VIP & ONE operator, post offices ...;
- non-governmental organizations with public authorizations - Doctors Chamber, Notary Chamber, Bar Association, Drivers Union ... (Grizo, Gelevski, Davitkovski and Daneva, 2011).

CORRUPTION IN THE CENTRAL AND LOCAL PUBLIC ADMINISTRATION IN MACEDONIA

Corruption is one of the greatest obstacles that every society faces when trying to develop and progress. By observing the political system, corruption is seen as an abuse of the public office for private benefits and interests. Corruption occurs in circumstances of derogatory and degrading civil servant salaries and advancements not based in performance. A problem for combating corruption is the politicization of the anticorruption bodies, making them have a selective approach to the corruption, mainly intending to degrade the political opponents of the parties in power. Impacts of corruption are fatal for the society and they affect the administrative values of equity, efficiency, transparency and openness. (Analytica, 2008)

Realistically, the corruption will never be wholly eradicated, even by the best preventive systems. Comprehensive reform strategies may succeed in dismantling systemic corruption, but there will always be some incidences of malfeasance that undermine good governance. This means the regulatory and reporting framework must be in place, including systems for detection and prosecution, which must themselves be beyond reproach. In some policy fields, there is a professional obligation to report malpractice where it arises, such as supervising engineers on infrastructure projects and auditors spotting financial irregularities. Where illegal or unethical activity is beyond the reach of internal audit and controls, whistle - blowing has been shown to be the most effective way of exposing wrong - doing, responsible for around half of fraud detection in the public sector. As whistle - blower protection remains relatively weak across Europe, and the act itself still not fully ingrained in the administrative culture as a contribution to better governance, its potential is yet to be fully realized (European Commission, 2015).

Corruption is often reported in the International Community to be an area of vulnerability for the countries of the Western Balkans and it appears that the people of Macedonia also express concern about this issue. The administrative corruption affects the daily lives of ordinary people in their dealings with the public administration, the service provider which plays such a huge role in contemporary society that three

quarters of adult citizens of Macedonia interact with it at some point during the course of the year. Such dealings may be for anything from a medical visit or school enrolment to the issue of a new passport or driving license (United Nation Office of drugs and crimes & State Statistical Office in Macedonia, 2011).

Perceptions about corruption in Macedonia are not so positive. A quarter of the population believe that corrupt practices occur often or very often in a number of important public institutions, including central and local government, parliament, hospitals, judiciary and the police. More than one third of the citizens (36%) believe that corruption is actually on the rise in their country, while another 36% believe that it to be stable and further 28% think it is decreasing. (Ibid).

Corruption in public administration means abuse of public authorities for gaining personal benefit. It does not only compromise the institutions and bodies' reputation and integrity, but it also affects the spreading of the feeling of discrimination and injustice. If citizens start believing that corruption in public administration is endorsed by the authorities, then they start to lose trust in the authorities and institutions. (Taseva, 2012)

For the needs of the paper, we will use the results of several surveys conducted in Macedonia, directly connected to the corruption phenomenon and the citizen's perception of it.

A relevant survey of citizen's perception of corruption in public administration in Macedonia has been made in the autumn in 2012. It was conducted via telephone interviews using a representative sample of 1080 citizens aged 18+. The design of a representative sample that reflects the attitudes of the citizens residing in the country has undergone several systematic procedures. The representativeness of the sample was provided by adhering to certain procedures in the course of its formulation deriving from the random sampling rules. The sample selection procedure was based on the design principle for regional and national sample, defined by the region and in compliance with its definition given by the State Statistical Office (NUTS 3 the EU 16). Namely, pursuant to the geo-demographic structure of the population, the country was divided in the following eight regions: Skopje, Polog, Pelagonija, Vardar, Northeast, Southeast, Southwest and East. Furthermore, respondents from all 84 municipalities coming from both urban and rural areas were proportionately included in the sample. The number of respondents was proportionately distributed with reference

to the total population of all the regions, and by using the official data from the 2002 population census. (Ibid)

The objective of this survey was to determine the citizen's perception of the prevalence and level of corruption in the public administration. The citizens provided separate answers regarding the prevalence of corruption in public procurement, inspection of companies, taxation and customs, obtaining permits (licenses, concessions, subsidies, etc.) and recruitment and promotion in public administration. The survey determines the percentage of citizens who had directly experienced corruption in public administration (they were asked for bribe), and defines their socio-demographic profile. In addition, those who had personally experienced corruption answered whether it was done through intermediaries or directly and whether it involved money, goods, services, etc.

Since corruption is a two-sided phenomenon and citizens are important stakeholders in this process, this survey determined how safe they feel when reporting corruption, their level of awareness of the negative effects of this phenomenon and the amount of information what to do if asked for bribe. In the end, the survey detected the citizen's viewpoints and perception of the importance of the international factor (EU, OSCE, UNDP, etc.) when tackling this serious social phenomenon. (Ibid)

In the effort to find out more about the prevalence of corruption in different public administration sectors, we asked the citizens to state their opinion whether and, if yes, how much corruption there is in the recruitment and career advancement in the public administration, the awarding of various permits and licenses, the awarding of public procurement contracts and the prevalence of corruption in customs clearance, taxation and inspection control of companies.

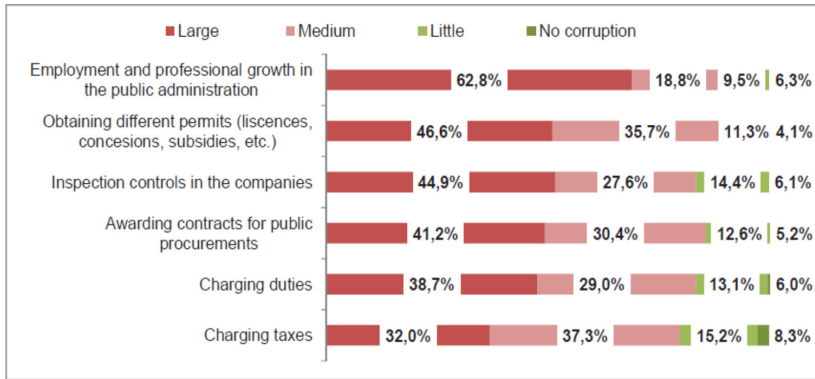


Chart 1: Level of corruption in separate public administration sectors

Source: Taseva (OSCE), 2012

As presented in the respondent’s answers in Chart 1, citizens believe that there is highest level of corruption in the recruitment and career advancement in public administration, then in obtaining of various permits and inspection controls of companies. If corruption is seen as a violation of laws by two parties at the expense of a third one, than it is quite common that corruption in recruitment and career advancement affects the highest number of citizens. According to data provided by the State Statistical Office, public administration employs 130 000 people, which means that every fourth person works for the state. The citizen’s perceptions presented in the survey are primarily based on the information that they obtain in everyday communication and from the media. Hence, it is quite logical that results show least corruption in taxation and customs clearance. (Ibid)

As part of the survey citizens were asked to share their personal experience with corruption. They answered whether over the last 12 months they have been asked to pay bribe for a certain service in the public administration and what they did in such a situation. As presented in the Chart below, more than 6% of the population in the country has been exposed to corruption. Nearly 2,5% of the citizens stated that they have never given bribe, as opposed to 4% who were asked to give bribe, but did not do so.

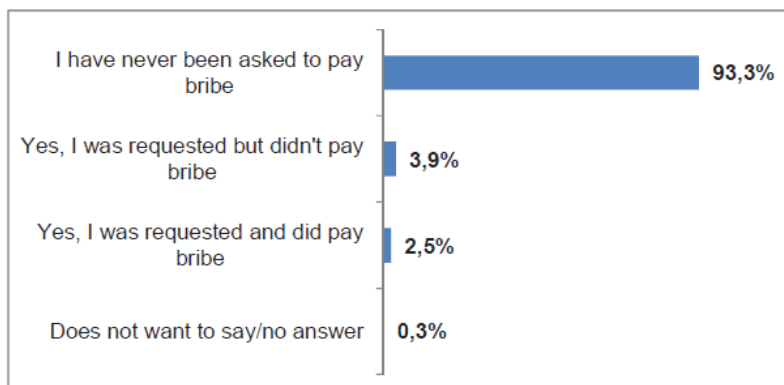


Chart 2: Have you been asked to give bribe or have you given bribe for a certain service provided by the public administration over the past 12 months?

Source: Taseva (OSCE), 2012

Bribing public servants comes in different shapes and sizes for various reasons. Bribery can be directly asked for by the person who should provide service, i.e. the public servant, then through an intermediary, or the citizens can offer bribe themselves in order to hasten the procedure for the service that is to be provided by the public administration. This research also asked the respondents who were asked to give bribe how this was done, i.e. if they were asked to give bribe directly or through an intermediary.

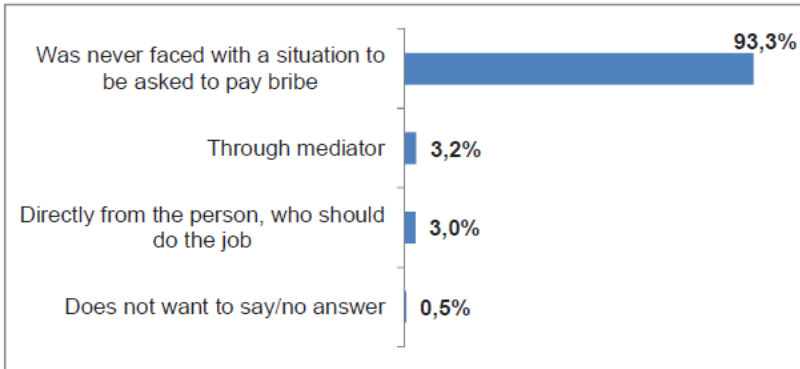


Chart 3: Were you directly asked to give bribe or through an intermediary?

Source: Taseva (OSCE), 2012

Bribe can be described as any form of exchange between two parties that is of benefit to them both. However, it is important to highlight that even though citizens should not be amnestied from this negative phenomenon, public servants (those who accept bribe) are still in a better position. The most frequent form of bribe is money (4,6%) as opposed to 1,8% who gave a different kind of bribe (goods, services, etc.).

In another research, respondents were asked to provide their perception of the prevalence of corruption in the central and local government in Macedonia, and below we present you a part of the research we consider relevant for the paper.

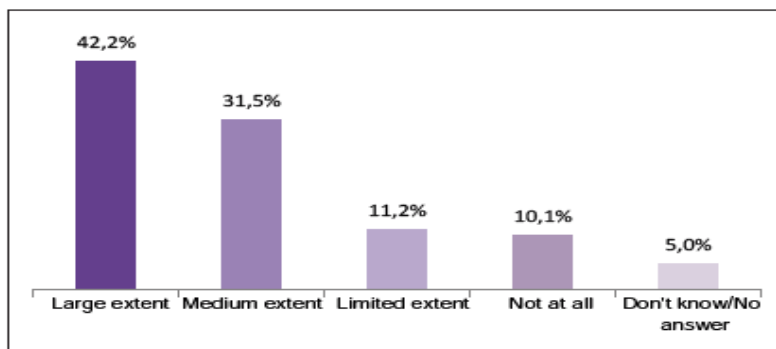


Chart 4: In your opinion, how widespread is corruption in the central government?

Source: Georgiev & Lazarova-Krstevska (OSCE), 2014

It is obvious that nearly 43% of the respondents believe that the corruption is very widespread in the central government.

Regarding the situation with the corruption in the local administration, we have the following Chart.

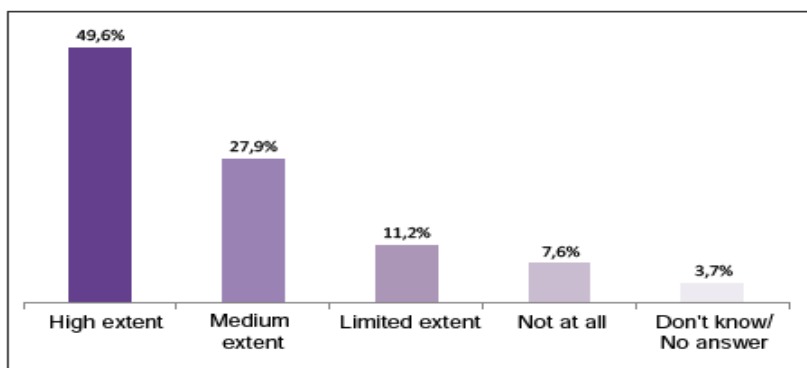


Chart 5: In your opinion, how widespread is corruption in the local government?

Source: Georgiev & Lazarova-Krstevska (OSCE), 2014

Nearly half of the respondents believe that corruption is very widespread in the local government and only 7,6% of the respondents believe that there is no corruption at all in the local government. This information is worrying, considering the fact that, while dealing with local and communal issues in the municipalities, citizens experience the effects and consequences of corruption more directly. Regarding the corruption seen by regions in Macedonia, these are the results.

	Very wide-spread	Somewhat wide-spread	Not very wide-spread	Not at all wide-spread	Don't know/No answer
Northeast	52.9%	30.6%	4.7%	8.2%	3.5%
East	44.3%	27.4%	17.0%	9.4%	1.9%
Southeast	41.5%	36.2%	8.5%	8.5%	5.3%
Skopje	50.7%	26.2%	9.9%	7.9%	5.3%
Polog	49.4%	29.1%	17.1%	2.5%	1.9%
Pelagonija	58.4%	23.4%	7.3%	8.8%	2.2%
Vardar	52.5%	28.8%	7.5%	8.8%	2.5%
Southwest	43.9%	27.6%	15.4%	8.9%	4.1%

Figure 1: In your opinion, how widespread is corruption in the local government (by regions)?

Source: Georgiev & Lazarova-Krstevska (OSCE), 2014

There are number of institutions in Macedonia, as well as in other countries, that are entrusted with fighting corruption in public administration. With the purpose of investigating how citizens in Macedonia rank the importance of these entities, they were asked to identify the body that can contribute most to preventing corruption.

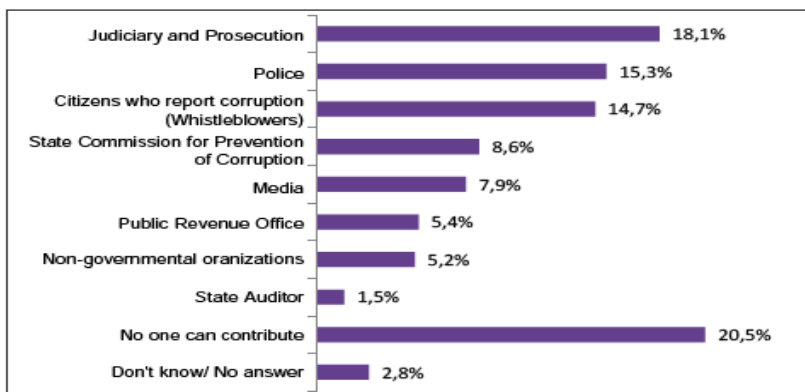


Chart 6: Which of these entities could contribute most to preventing corruption?

Source: Georgiev & Lazarova-Krstevska (OSCE), 2014

The process of increasing the local self-government competences and especially the fiscal decentralization process, led to significantly increased rights and competences of the units of the local self-government in the country in areas that are of crucial importance to the citizens living in the municipality. In addition to the increased possibilities for employment in the public administration, public enterprises set up by the municipalities, kindergartens, primary and secondary schools and other institutions at the local level, the municipalities also acquired fairly large budgets used for public procurement, infrastructural improvements in the municipality and construction of new facilities. Furthermore, municipalities were also transferred the authority to adopt and change detailed urban plans, manage construction land, determine property tax, as well as provide inspection oversight. All these processes make the local self-government vulnerable to corruptive behavior. (Ibid)

	Very wide-spread	Somewhat widespread	Little wide-spread	Not at all	Don't know/No answer
Employment	45.1%	19.9%	9.1%	13.8%	12.1%
Work of the inspection services	25.7%	29.1%	10.2%	16.9%	18.1%
Awarding public procurement contracts by the municipality	22.0%	30.1%	11.9%	15.2%	20.8%
Issuance of construction permits	21.2%	23.2%	11.4%	19.5%	24.7%
Adopting or changing urban plans	20.3%	24.1%	11.9%	21.4%	22.3%
Determining property tax	16.3%	21.8%	9.9%	30.6%	21.4%

Figure 2: To what extent do you think corruption is widespread among the municipal authorities when implementing the following activities that are in their competence?

Source: Georgiev & Lazarova-Krstevska (OSCE), 2014

Concerning the ethical dimension in the public administration, we can note that it is very unclear and ambiguous. Namely, although Macedonia had launched the first Code of ethics for public servants even 17 years ago, still, the problem is not lying on the legislative part, but on the animation and implementation of the Code in practice.

In article 9 of the Code, stands that “civil servants should not ask for nor accept for themselves or for others, gifts, services, assistance or any other benefit that could affect or that could seem to affect their decisions for certain issues or that could corrupt their professional approach towards certain issues; they shall not accept gifts or gratitude that could be deemed as reward for those activities the performance of which is their responsibility; they shall not ask for themselves or for other nor shall they accept gifts or other form of benefit from other civil servant or his/her relative”. (Civil Servants Agency, 2001)

But, the situation in the ‘real administrative life’ is different. We are witnesses of many irregularities made by the public servants, no matter if they were punished about this behavior or not.

It is interesting to emphasize that the Code of ethics in Macedonia is very similar in the content with the Codes in many countries in Central

and Eastern Europe (noted in the comparative analyses below - in Figure 3)

	Poland	Estonia	Czech	Bulgaria	Macedonia	Latvia
Objective	*	-	+	+	+	+
General principles of ethics	+	+	+	+	+	+
Conflicts of interest	+	*	+	*	+	+
Gifts and favours	+	-	+	+	+	-
Outside activities	+	-	-	-	-	-
Use of information	+	+	+	+	+	+
Political activity	+	-	+	-	+	-
Conduct in private life	-	-	+	+	+	-
Use of state property	+	+	+	-	+	-
Working time	-	-	-	-	+	+
Physical presentation of employee	-	-	-	-	+	-
Relations with media	-	-	-	-	+	-
Post employment limitations	+	-	-	+	-	-
Responsibility and sanctions	-	-	-	+	-	+
Enforcement mechanism	-	-	-	-	-	+

* - indirectly.

Figure 3: Content of Codes in CEE countries

Source: Palidauskaite, 2003

Anyway, there is a huge difference in the practical implementation of the Codes in each of these countries. This is due to several reasons: the monitoring and observation by the authorities, the mechanism of sanctions for public servants, the political and administrative culture in the countries, the mentality of the people, the level of nepotism and cronyism in the public administration, the internal and external control, etc.

MONITORING AND EVALUATION OF THE CORRUPTION IN THE PUBLIC ADMINISTRATION IN MACEDONIA AND SUGGESTIONS FOR IMPROVEMENT

There are many instruments and mechanisms for monitoring and control on the fight against corruption in the public administration in Macedonia. Although there are internal and external instruments (inside and outside the state), still, our focus in this part of the paper will be on

the international organizations which make continuous monitoring and assessment on these processes, and generate relevant reports in which they note the current situation, but also give many recommendations, suggestions and guidelines for improvement. One of these bodies is GRECO (Group of states against corruption), which acts in the framework of the institutional structure of the Council of Europe (CoE).

Macedonia joined GRECO in 2000. Since its accession, it has been subject to evaluation in the framework of GRECO's evaluation rounds. There are four evaluation rounds accomplished in Macedonia and in each of them, in a very systematic way, the situation with the corruption in the public administration have been scanned and many recommendations have been launched.

Some of them have been implemented satisfactorily, some of them implemented in a satisfactory manner, some of them partially and some of them haven't been implemented at all. In the following tables, we will make a review on the recommendations given by GRECO in the four evaluation rounds, with the remark about the fulfillment of each of them. For simplification, we will use the qualifications – implemented satisfactorily and implemented in a satisfactory manner with a similar value. Also, due to the indirect connection with the public administration, but also due to the lack of space in the paper, we will make selection of the recommendations for the third and fourth Evaluation Round.

Table 1: GRECO's recommendations – First Evaluation Round

	Content of the Recommendation	Implementation status
Recommendation I	To conduct regular studies to improve knowledge of the fields most affected by corruption with a view to developing a detailed corruption picture based on statistics and research to measure more clearly the extent of the corruption	Partly implemented

	phenomenon in the country	
Recommendation II	To adopt a comprehensive national anti-corruption strategy, as well as raise awareness among public officials and the public about the danger entailed by corruption	Implemented satisfactorily
Recommendation III	To develop stronger transparent and public accountability policies in the public administration to increase governmental efficiency	Implemented satisfactorily
Recommendation IV	The public should be able to identify those with whom they come in contact and to be well informed about procedures for making complaints	Implemented satisfactorily
Recommendation V	To develop and implement, in addition to what is already in place, procedures and policies to support managers of State bodies and agencies to identify, prevent, challenge and deal with corrupt, dishonest and unethical behavior. Such procedures should include education, training and prevention	Implemented satisfactorily
Recommendation VI	To create, or to strengthen where they already exist, special departments and/or inspection bodies responsible for the	Implemented satisfactorily

	prevention and examination of internal cases of corruption	
Recommendation VII	To swiftly implement all the measures provided by the Law on Preventing Corruption, and, at the same time that the State Commission establishes a comprehensive and clean plan of action. It also recommended that the commission's work be published in an annual report to the Parliament	Implemented satisfactorily
Recommendation VIII	To make the necessary amendments to article 17 of the Constitution and to the Code of Criminal Procedure notably by introducing new clear provisions making the use of special investigative means in criminal investigations of the most serious crimes including corruption, possible. These legal measures have to be followed by concrete actions to provide both appropriate training and proper technical equipment for police officers, prosecutors, investigating judges and judges	Implemented satisfactorily
Recommendation IX	To introduce and above all implement a comprehensive legal	Implemented satisfactorily

	framework precisely defining measures to protect witnesses and to consider the institution of a procedure for interviewing whistle-blowers and other witnesses whose identity is known only to the competent judicial authority.	
Recommendation X	All public officials to receive training on codes of conduct and applicable integrity/ethical rules and regulations relating to their employment	Implemented satisfactorily
Recommendation XI	To set up a specialized anticorruption unit, either as a special unit integrated into the new financial police or as a separate body within another State agency. This unit should be responsible for dealing specifically with the prevention, detection and investigation of corruption cases, and that the unit produce an annual progress report on its activities to be made available to the public	Partly implemented
Recommendation XII	To undertake the necessary measures to create, within the Public Prosecution Office, a special section/unit responsible for dealing with corruption and	Implemented satisfactorily

	<p>corruption-related offences. Also, selecting specialized and well-trained prosecutors to deal exclusively with these forms of crimes and provide them with appropriate education, training and technical equipment. (preparing internal guidelines and annual education/training for prosecutors of all levels of the Public Prosecution Office)</p>	
<p>Recommendation XIII</p>	<p>To create clearly defined conditions and examination procedures for appointment of all new candidates to the Public Prosecution Office and to the Courts valid equally to both prosecutors and judges. Also, to undertake all necessary measures to reduce the risk of any interference in the process of nomination of prosecutors and judges</p>	<p>Partly implemented</p>
<p>Recommendation XIV</p>	<p>In public procurement matters, the courts should be able to pronounce interlocutory decisions that suspend the tender procedure in the event of an appeal by a bidder on grounds of unlawful exclusion from the</p>	<p>Implemented satisfactorily</p>

	consultation of adjudication procedure	
Recommendation XV	To amend the national legislation to ensure that the procedure for deciding on immunities of members of Government is not to be carried out by the Government itself	Partly implemented
Recommendation XVI	To establish Guidelines for Deputies of the Assembly, and especially its Committee on Immunities, containing criteria to be applied when deciding on requests for lifting immunities	Not been implemented
Recommendation XVII	To reduce the list of categories of officials covered by immunity to a minimum	Not been implemented

Source: GRECO, 2004

Table 2: GRECO's recommendations – Second Evaluation Round

	Content of the Recommendation	Implementation status
Recommendation I	To prepare a project for the implementation of the new proceeds of crime legislation on confiscation and seizure and connected issues, including the establishment of guidelines and thorough training for the officials concerned and to collect detailed	Partly implemented

	information on the use, and failure to use, confiscation and interim measures in order to be able to evaluate how the system operates in practice	
Recommendation II	The Government formally to adopt the State Program for the Prevention and Suppression of corruption	Implemented satisfactorily
Recommendation III	To include anticorruption measures concerning local authorities as a specific subject of State Program against corruption and to see that they are implemented in practice	Implemented satisfactorily
Recommendation IV	To urgently adopt basic legislation on access to public information and to develop modern principles and routines for “e-governance”	Implemented satisfactorily
Recommendation V	To increase the public awareness of the Ombudsman as a potential mechanism for processing complaints concerning corruption in the public administration	Implemented satisfactorily
Recommendation VI	To consider the introduction of specialized courts – or departments of existing courts – only focusing on administrative law and complaints	Implemented satisfactorily
Recommendation VII	To encourage law enforcement and	Implemented satisfactorily

	prosecutorial bodies to enhance their communication with other state bodies, in particular those with an obligation to report suspicions of corruption or similar activities	
Recommendation VIII	To consider establishing a regulatory framework of modern administrative principles for the large number of public officials who are not civil servants, which correspond, to the extent possible to the regulations applicable to civil servants	Partly implemented
Recommendation IX	To introduce codes of conduct for all public officials including clear rules for reporting suspicions of corruption and to provide training on such matters as well as the risks of corruption, preventive measures and public awareness raising	Partly implemented
Recommendation X	To strengthen the controlling functions of the courts in charge of the registration of legal persons with regard to the identity of the founders of legal persons as well as other pertinent information necessary for registration	Implemented satisfactorily

Recommendation XI	To establish a centralized registry for legal persons and to improve the material possibilities for the public to accede to information contained in the registry/ies	Implemented satisfactorily
Recommendation XII	To adopt legislative or other measures to ensure that legal persons can be held liable for the criminal offence of trading in influence	Not been implemented
Recommendation XIII	To consider the establishment of a criminal record registry for legal persons	Implemented satisfactorily
Recommendation XIV	To establish extensive training for police, prosecutors and judges on corporate liability of legal persons and the implications of corporate liability legislation for the investigation, prosecution and adjudication of relevant cases	Partly implemented

Source: GRECO, 2007

Table 3: GRECO's recommendations – Third Evaluation Round (selection)

	Content of the Recommendation	Implementation status
Recommendation I	To take the legislative measures necessary to ensure that the offences of active and passive bribery	Implemented satisfactorily

	in the public sector cover all acts/omissions in the exercise of the functions of a public official, whether within the scope of the official's duties or not	
Recommendation V	To criminalize active trading in influence as a principal offence, review the provision on passive trading in influence to unambiguously cover, the request of the acceptance of the offer or the promise of an undue advantage by the influence peddler, the direct and indirect commission of the offence and those instances where the advantage is not intended for the briber him/herself but for a third party	Implemented satisfactorily
Recommendation VI	To ensure that the mechanism by which sanctions are imposed for violations of the rules on political funding by political parties and election campaign organizers can be applied in practice	Not been implemented

Source: GRECO, 2012

Table 4: GRECO's recommendations – Fourth Evaluation Round (selection)

	Content of the Recommendation	Implementation status
Recommendation II	Further to develop the internal mechanisms and guidelines within the Assembly on the prevention of conflicts of interest and the acceptance of gifts, hospitality and other advantages and that compliance by parliamentarians with these rule be properly monitored	Not been implemented
Recommendation VI	The authorities in Macedonia to ensure that the legal criteria and rules for the appointment of judges of first instance courts are effectively implemented in practice, in particular as regards the requirement that all new judges be graduates of the Academy for Training of Judges and Public Prosecutors	Implemented satisfactorily
Recommendation XI	To develop rules and guidance for judges on the acceptance of gifts, hospitality and other advantages and that compliance with these rules be properly monitored	Partly implemented

Source: GRECO, 2016-2018

We can draw many interesting conclusions and points from the Evaluation Rounds. It is obvious that most of the recommendations have been successfully implemented. What is characteristic is that most of these measures are of legal or clear administrative nature (establishing agencies and administrative bodies, amending or changing laws and by-laws, creating strategies, trainings, education, etc). The recommendations which are partly implemented or not implemented at all are related to immunity and privileges of the functionaries, criteria for selection and employment, political interference in the process of nomination of prosecutors, judges, etc. So, the effect is lower or there is no effect in the “politically sensitive fields” in which the high political structures are affected. It means that despite with the formalism of the political managers, we also have problem with the administrative culture in Macedonia. Also, there is problematic implementation of the recommendations related to personal gains of the public servants, judges and prosecutors (because of the absence of personal and political will for change).

In the European Commission (EC) reports for Macedonia, there is a part related to the public administration reform and in its framework, there are notes about several parameters, like transparency, accountability, service orientation, merit or spoils system of employment, etc. The segment which relates to corruption is situated in the part for Rule of law and fundamental rights.

In the last EC report in 2018, we can stress several important issues about corruption. “The legislative and institutional framework is in place and there is a track record on both prevention and prosecution. However, final court rulings on high level corruption cases remain limited. There are several high level corruption cases before the courts and the fact that the Special Prosecutor’s Office is been allowed to pursue its role could be a turning point in the fight against high level corruption under certain conditions. The amendments to the Law on the protection of whistle-blowers are also a positive step. Corruption is prevalent in many sectors and remains a serious problem. The capacity of state institutions to effectively tackle corruption has shown structural and operational shortcomings.” (European Commission, 2018).

If we do analyses of all the other EC reports for Macedonia, unfortunately we will have to identify almost the same remarks for Macedonia, with some specific features in each of them. Generally, the fight against corruption is a very difficult task for Macedonia and its

relevant and authorized institutions, not only because of the lack of financial and human resources, but also because of the very wide distribution of the phenomenon and very weak and indifferent institutional control in practice.

There are many ideas, suggestions and recommendations that could be given for the improvement for decrease of the corruption in the public administration in Macedonia. We are aware that some of this suggestions have limitations (especially financial), but, still, we find useful to place them at the end of this paper.

One of our suggestions is more severe measures to be imposed in the Criminal Code in Macedonia for the corrupted public servants (one of the “stick method” measures), because we think that in this way practicing corruption by the public servants will be reduced, compared to the current situation. First of our “carrot method” suggestions will be an increase of the salaries for the public servants. We consider this measure compatible with the previous suggested measure and we think that bigger salaries together with bigger sanctions will definitely mean less corruption in the public administration. Another suggestion in that direction is to speed up the possibilities for advancement of the public servants in the vertical hierarchy (when we speak about the public servants, we consider all employees which receive salaries from the state or local budgets in Macedonia). In that way the motivation of the public servants will be bigger and the intra-institutional fight against corruption will be increased.

We are witnesses of many monitoring activities by the relevant institutions, organizations and entities from the International Community (United Nations, European Union, OSCE, Council of Europe, Transparency International, USAID, etc.), but the reports they produce are generally of narrative and advisory character. We suggest stronger international monitoring and engagement of more international anti-corruption experts from the most developed countries who will educate the public servants and will transfer their experiences from the national systems.

Also, some technical and managerial measures should be undertaken as a suggestion, like video monitoring in all public institutions, hiring person who will be responsible for communication with the dissatisfied clients from the distributed services and treatment by the public servants (it doesn't have to be a public servant), etc.

At the end, as an indirect measure we can suggest implementation of a European quality management instrument called Common Assessment Framework (CAF).

The implementation of the CAF model is aimed at introducing a performance system for the purposes of continuous improvement of the organization's performance and processes, improved motivation of the employees and monitoring the overall performance outputs. The application of the CAF model will have a successful impact on the overall public administration system and will contribute to the achievement of modern, efficient and professional administration in service of its citizens. Thousand of organizations through Europe and abroad apply the CAF model and have proven that it works and yields results (OSCE Mission in Skopje & Ministry of information society and administration).

CONCLUSION

The phenomenon of corruption in the public administration is probably old as the creation of the public administration (not only in contemporary, but also in the pre-historical aspect). It is impossible to completely eradicate the corruption in the public administration, not only in the less developed, but also in the most developed countries in the world.

Macedonia is one of the countries with very high index of corruption (35 according to the 2017 Corruption Perceptions Index of Transparency International – at the bottom is Somalia with an index of 9, and at the top is New Zealand with an index of 89 – the interval is from 0-100, where 0 means maximum corruption and 100 means no corruption). Of course, very big percentage of this “success” goes on the account of the public administration in Macedonia.

Our analyses have shown that the corruption doesn't correlate at all with the type of administration, because it is almost equally represented in the central and local administration. So, we exclude the type/category of administration as a determinant of the level of corruption. Although there are different competences and authorizations of the central institutions and bodies from one side and the local ones from the other, still, the corruption is present in both.

The fight against corruption in the public administration in Macedonia seems like a “Sisyphus work”, especially at the top of administration,

because of the political interference and influence on its work. (not only in the executive branch, but also in the judicial branch). So, the combination of a strong political will and commitments can be a solution for reducing of corruption at the highest administrative levels.

Low salaries in the public sector (for most positions, under the amount of the average salary in Macedonia) were determined also as a factor for increase of the number of public servants who take bribe (as sort of compensation for the low salaries). So, a good step for solution will be more money in the budget (central and local) for the public administration.

There are many institutions in Macedonia authorized to combat with the corruption, like the State Commission for Preventing Corruption, public prosecutors, special units in the police, and of course the courts as main protagonists in the judicial branch. Still, the effects of the institutions are very small and almost invisible and as a main problem which is arisen is the implementation of the laws and by-laws treating corruption in practice.

Last, but not least, the mentality, tradition and habits of the Macedonian citizens (rooted even from the time of the Ottoman Empire), and also of the public servants are not in favor of the fight against corruption. The fault for corruption is two-sided and the citizens often try to find the “easier administrative way” for accomplishing their goals by offering bribe, which is ‘very difficult to be rejected’ by most of the public servants.

As a final conclusion we can note that a synergy of strong political, administrative, legislative, but also cultural and educational measures and steps is needed, so the situation with the corruption in the public administration in Macedonia to become canalized, reduced and “put on acceptable level”, if we can say so. In that way, a strong international help is required, because Macedonia, together with the other Balkan countries is still “on the road to become a real functional democracy”.

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Even in times of intense polarization and lack of public consensus there are two propositions which we might hope would find nearly universal assent. Simply, those propositions are: that corruption is bad, and higher education is good.

Taking this collection as a whole we can see both a focus on Macedonia, and to the Balkans, as a window into the corruption of higher education – with some responses very specific to local systems – but also as a starting point for thinking about how corruption threatens the values of higher education in a much wider and more challenging way.

Knowing the corruption we see in our home institutions and nations, we must give credit to those who have made the decision to confront it. This collection has taken up the challenge and represents an important step in the fight against corruption. As such, it deserves our attention, both directly for the lessons found here and indirectly for the inspiration and model it provides.

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