

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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LIST OF CONTENTS

<i>Patrick Schmidt and Paul Martin</i>	
Introduction: The Horizons of Corruption in Higher Education.....	i
<i>Jeton Shasivari</i>	
Corruption in Higher Education in the Republic of Macedonia: Fiction or Reality?	1
<i>Olga Koshevaliska and Borka Tushevska Gavrilovik</i>	
Building Capacities for Preventing Corruption in Higher Education in Macedonia	23
<i>Nikola Tuntevski</i>	
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.....	43
<i>Mišo Dokmanović, Darko Spasevski and Katerina Shapkova Kocevska</i>	
Preventing Corruption in Higher Education in Macedonia through Whistle-Blowing: Lessons Learned	87
<i>Sami Mehmeti</i>	
The Practice of Predatory Publishing in the Academic Community in Macedonia	101
<i>Vlora Rechica</i>	
Everybody Does It: Youth Acceptance and Ignorance of Corruption..	117
<i>Vasilka Sancin and Jan Marčič Maruško</i>	
The Role of University Curricula in Corruption Prevention: The Case Study of the University of Ljubljana, Faculty of Law	133
<i>Besa Arifi</i>	
Educating Students and University Staff on Whistleblowers' Protection as a Tool for Countering Corruption in Higher Education.....	164

<i>Snezana Sekulovska and Mirjana Nedelkovska</i> Preventing Corruption through Education.....	173
<i>Alban Koçi and Enxhi Tamburi</i> The Academic Holistic Approach to Fight Corruption	185
<i>Aleksandra Deanoska – Trendafilova</i> The Central Elements of the Whistleblowing Legislations from Comparative Perspective.....	197
<i>Mladen Karadzovski</i> Corruption in the Central and Local Public Administration in Macedonia: Analysis and Anticipation	217

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

Mišo DOKMANOVIĆ¹

Darko SPASEVSKI²

Katerina SHAPKOVA KOCEVSKA³

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

¹ Associate professor at the School of law Iustinianus Primus, Ss. Cyril and Methodius University – Skopje.

² Associate professor at the School of law Iustinianus Primus, Ss. Cyril and Methodius University – Skopje.

³ Assistant professor at the School of law Iustinianus Primus, Ss. Cyril and Methodius University – Skopje.

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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