

ANALYSIS

# PERCEPTIONS OF GENDER AND CORRUPTION IN NORTH MACEDONIA





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# Acronyms and abbreviations

AKMIS	Case management system used in all courts in North Macedonia
GRECO	Group of States Against Corruption
SCPC	State Commission for Prevention of Corruption
EU	European Union
CC	Criminal Code of the Republic of North Macedonia
MIA	Ministry of Internal Affairs
MLSP	Ministry of Labour and Social Policy
NGO	Non-governmental organizations
OSCE	Organization for Security and Cooperation in Europe
UN	United Nations
Working Group on Business and Human Rights	Working Group on the issue of human rights and transnational corporations and other business enterprises
UNFPA	United Nations Population Fund
UNDP	United Nations Development Program
HELP	Programme for Human Rights Education for Legal Professionals
SDG	Sustainable Development Goals
UNODC	United Nations Office on Drugs and Crime
UN OHCHR	United Nations Office of the High Commissioner for Human Rights
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women





# INTRODUCTION

Corruption constitutes one of the major obstacles to the effective promotion and protection of human rights. It undermines the state's ability to mobilize resources for the delivery of services essential for the realization of economic, social and cultural rights and leads to discriminatory access to public services in favour of those able to influence the authorities, including for example by offering bribes or resorting to political pressure.<sup>1</sup>

The private sector can also be a driver and recipient of corruption. Persons at the top of the corporate ladder have enormous power to influence corruption, i.e., if the "tone at the top" supports bribery and fails to deal with the problem, by adopting policies and procedures to detect, eliminate and sanction corrupt conduct, it can reinforce a culture that supports corruption within the company.<sup>2</sup>

Are women less corrupt than men? Many would instinctively say "yes, probably", even if they had not reflected on the issue before.<sup>3</sup> When asked in public opinion surveys whether men or women are more corrupt, far greater number of respondents tend to pick men, though this varies across countries.<sup>4</sup> Research has shown that women, in general, perceive corruption levels as worse and are more likely to be in favour of punishing corrupt conduct.<sup>5</sup>

The relationship between gender and corruption has been analysed since the turn of the millennium with studies commissioned by the World Bank that reported correlations between the proportion of women in positions of power in different countries and the existence of anti-corruption measures in those countries.<sup>6</sup> Corruption differently affects women and men and the perceptions of corruption show an emphasized gender dimension. In most societies, women are primarily responsible for the care of the family and are constantly faced with corrupt practices in education,

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<sup>1</sup> UN OHCHR, General comment No. 24 (2017) on State obligations in the context of business activities, 23 June 2017.

<sup>2</sup> Breen, M. et al. 2016. Gender and Corruption in Business. *The Journal of Development Studies*. 53, 1-16, p. 3.

<sup>3</sup> UNODC. 2020. The Time is Now: Addressing the Gender Dimensions of Corruption. Vienna. p. 12.

<sup>4</sup> Ibid.

<sup>5</sup> Sida. 2015. Gender and Corruption, Brief. March 2015, p.2.

<sup>6</sup> UNODC. 2020. The Time is Now: Addressing the Gender Dimensions of Corruption. Vienna. p. 12.

health and other public services. Gender inequality breeds various corrupt practices and conduct that further affect the position of women in society. A corrupt judiciary implies a lack of access to justice for women whose cases are often not processed if the defendant/accused has power, wealth or connections.<sup>7</sup>

It has been proven that women in leadership positions are more motivated and invest more in tackling corruption that is closer to their reality, such as that in health or education or corruption related to sexual extortion.<sup>8</sup>

However, although corruption is a major obstacle to development and economic progress, and despite the existence of sound evidence that corruption disproportionately affects women and girls, most corruption policies do not show a clear link to gender aspects.<sup>9</sup>

According to Transparency International's Corruption Perceptions Index, which ranks 180 countries and territories all over the world by their perceived levels of public sector corruption, scoring on a scale of 0 (highly corrupt) to 100 (very clean), North Macedonia scored 40, one point more than last year, which ranks the country 85<sup>th</sup>.<sup>10</sup>

The topic of perceptions of gender and corruption in the public and private sectors in North Macedonia is largely unexplored. In addition, there are no data on whether corruption reporting structures in both sectors are in place and whether they are gender sensitive. Gender mainstreaming is key to developing responsive and effective policies and practices that will contribute to equal access to goods and services for women and men, girls and boys.

This topic is further relevant as the European Union (EU) legislation is rapidly evolving towards establishing obligations for private sector companies for reporting on their business practices (e.g., under the *Corporate Sustainability Reporting Directive*<sup>11</sup>) and developing operational complaints mechanisms (e.g., under the *Corporate Sustainability Due Diligence Directive*,<sup>12</sup> in the process of adoption). The core of the EU law on this topic are the *Guiding Principles on Business and Human Rights*,<sup>13</sup> for which the Working Group on the issue of human rights and transnational corporations

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<sup>7</sup> Transparency International. 2016. Gender and Corruption, Topic Guide.

<sup>8</sup> OSCE. 2021. Gender and Corruption. What do we know? A Discussion Paper, p. 12.

<sup>9</sup> Sida. 2015. Gender and Corruption, Brief. March 2015, p. 1.

<sup>10</sup> Transparency International, Corruption Perceptions Index, 2022, <https://www.transparency.org/en/cpi/2022>

<sup>11</sup> EU, Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting,

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464>

<sup>12</sup> European Commission, Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937,

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0071>

<sup>13</sup> Konekt. 2019. Guiding Principles on Business and Human Rights, Implementing the United Nations "Protect, Respect and Remedy" Framework, Skopje.

and other business enterprises (also referred to as the Working Group on Business and Human Rights) has published two reports on gender<sup>14</sup> and corruption<sup>15</sup>.

In addition, a number of EU directives relevant to the subject of the analysis have been incorporated into our legislation, such as the *Gender Equality Directive* (2006)<sup>16</sup>. As a member of the Council of Europe, our country has the obligation to submit reports to GRECO - Group of States against Corruption, sharing data from the public sector on the gender dimensions of corruption. Also, in partnership with other stakeholders, the state should undertake obligations for achievement of the Goal 5 on gender equality from *the Sustainable Development Goals* (SDGs) and Goal 16, on reducing corruption, increasing transparency, reducing illicit financial flows and improving access to information.

## Objectives of the analysis

The purpose of this analysis is to present information on the perceptions of the gender dimension of corruption in the public and private sectors in North Macedonia, the existence of gender-sensitive structures for reporting corruption, and the ability and willingness of the public to report corruption. The analysis presents findings on issues related to gender and corruption, including the identified gaps at the legislation, budget, policy, decision-making and implementation level. In addition, recommendations are provided for improving the situation, with a particular focus on gender mainstreaming. The analysis complements the body of existing analyses on the topic of gender and corruption, expanding the scope of analysis on all forms of corruption, with a particular focus on the perceptions of the gender dimension of corruption.

## Methodological approach

The analysis was conducted based on the analytical method of triangulation, that is, applying a combination of several analytical methods to assess the situation, the institutional framework and the stakeholders' perceptions.

First, the relevant international and national legal framework was examined. Publicly available information posted on websites, relevant laws and by-laws,

<sup>14</sup> UN OHCHR, Report on gender lens to the Guiding Principles on Business and Human Rights, A/HRC/41/43: 24 May 2019.

<sup>15</sup> UN OHCHR, Report on connecting the business and human rights and the anticorruption agendas, A/HRC/44/43, 18 June 2020.

<sup>16</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054>

strategies, organizational charts of relevant institutions, as well as reports and analyses on the topic of gender and corruption were considered.

Pursuant to *the Law on Free Access to Public Information*, a questionnaire (Annex 1) was sent to relevant institutions, including the Constitutional Court of the Republic of North Macedonia, criminal and civil courts (Basic Civil and Criminal Court Skopje, Basic Court Bitola, Basic Court Shtip, Basic Court Gostivar), Basic Public Prosecutor's Office for Organized Crime and Corruption and to the Ministry of Internal Affairs (MIA). Responses were received from the Constitutional Court of the Republic of North Macedonia, the Basic Civil Court Skopje, the Basic Criminal Court Skopje, the Basic Court Bitola, the Basic Court Shtip and the Ministry of Internal Affairs.

To enable deeper understanding of the problem and a qualitative analysis of the perceptions related to the gender aspects of corruption, eleven interviews were conducted with employees of public institutions and representatives of the non-governmental sector. The interviews were conducted through Zoom application, lasted about half an hour, and were guided by open-ended questions. The responses received were then analysed based on qualitative analysis. All participants in the interviews were informed about the project, the objectives of the analysis and the wider scope of the activities of UN Women, as well as about the confidentiality and anonymity of the qualitative interviews.

In addition, two questionnaires were developed and shared online through the Google platform in the period from 17 June to 29 June 2023. The questionnaires were shared directly through personal contacts and were made available on the social networking platform Facebook.

The first questionnaire was intended for the general public (Annex 2), to collect information about the perceptions of the gender aspects of corruption in the public and private sectors and the willingness to report corruption. The questionnaire was filled out by a total of 122 respondents from the general public - 99 women and 23 men. Of the respondents who filled out the questionnaire, 95.1% live in urban areas, 88.5% have completed higher education, and the rest have completed secondary education. Half of the respondents (50%) are employed in the private sector, 26.2% in the public sector, 10.7% are retired and 8.2% are business owners. The age group from 35 to 44 years was the most represented, followed by the age group from 45 to 54 years and from 25 to 34 years.

The second questionnaire was intended for employees in the private sector (Annex 3), to help collect information on perceptions of corruption and the existence of gender dimensions in the development and implementation of corruption reporting mechanisms. A total of 50 respondents employed in the private sector filled out the questionnaire, of which 43 were women and 7 were men. All respondents, except one, have a university degree. The respondents who answered the questionnaire hold positions in different business functions, from strategy (6%), sales and marketing (12%), to finance (16%). They work in different sectors, such as construction (10.2%), health and social care activities (6%) and

other service activities (12%). In terms of the number of employees, the majority work in micro enterprises (24%), followed by companies with more than 500 employees (16%) and companies with 11-20 employees (14%), with the largest number of respondents (70 %) employed with domestic companies.

The questions were adapted from the Human Rights Compliance Assessment<sup>17</sup> indicators of the Danish Institute for Human Rights, the annual reports of the Working Group on Business and Human Rights related to gender and corruption, and the *General Recommendation No. 33* of the United Nations (UN) Committee on the Elimination of Discrimination against Women<sup>18</sup>.

## Limitations

The analysis and research were conducted on the basis of publicly available information and the responses provided by the competent institutions. In general, there is a lack of relevant data on the gender dimension of the prevention and combating corruption. The majority of the institutions do not have relevant information in this area, which poses a challenge to any more extensive analysis.

## Structure of the analysis

The first part of the analysis is focused on corruption and gender aspects of corruption. Corruption in the private and public sector, the gender dimension of corruption, and gender-sensitive mechanisms for reporting corruption are defined. The analysis covers all forms of corruption in the public and private sector, thus contributing to the enrichment of knowledge and information in this area.

The second part presents the international framework relevant to gender and corruption.

The third part includes an analysis of the national context, presenting the legislative framework and identifying gaps at the legislation and policy level. In addition, data on corruption in the public and private sector in North Macedonia are presented and the institutional framework and relevant stakeholders are examined.

<sup>17</sup> Danish Institute for Human Rights. 2019. Human rights indicators for business, 10 September 2019, <https://www.humanrights.dk/tools/human-rights-indicators-business>

<sup>18</sup> UN, General Recommendation No. 33 of the United Nations Committee on the Elimination of Discrimination against Women, CEDAW/C/GC/33, 03 August 2016, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2FC%2F33&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2FC%2F33&Lang=en)

The fourth part includes an analysis of the perceptions of corruption in the public and private sector, as well as the public's willingness to report corruption, which is based on the analysis of data obtained through different analytical methods.

The fifth part of the analysis contains conclusions on the perceptions of corruption, the legislative and institutional framework, and access to justice for victims of corruption, using a gender lens.

In the final part, recommendations are given for improvement of the situation, taking into account the international standards in relation to the obligation of the state to protect its citizens from corrupt practices and the obligation of companies to respect human rights and prevent corruption, with a specific focus on gender mainstreaming. Accordingly, apart from international standards, conclusions of experts and recommendations of relevant non-governmental organizations are also taken into account as relevant considerations. The recommendations refer to the following:

- Guidelines and methods recommended to be adopted by relevant parties (in the public and private sector) to ensure gender mainstreaming;
- Capacity and awareness that should be integrated to establish gender-sensitive legislation and access to justice;
- Types of cooperation that should be established for the effective application of national legislation for the benefit of all women and men.

# CORRUPTION AND GENDER ASPECTS OF CORRUPTION



# 1. Corruption

There is no universally accepted definition of corruption at the international level. *The United Nations Convention against Corruption*,<sup>19</sup> the only international legally binding instrument against corruption, addresses corruption by focusing on the various forms of corruption. The table below explains the different forms of corruption in more detail.<sup>20</sup>

FORM	IT HAPPENS WHEN...
<b>COMMERCIAL BRIBERY AND KICKBACKS</b>	giving payments, undue advantage or expensive gifts to employees of another company/body to secure an advantage. Examples include paying procurement staff to sway their decision in favour of the paying company; or giving an expensive gift to a bank manager to secure a loan, and various forms of kickbacks.
<b>TRADING IN INFLUENCE</b>	a private sector employee gives payments, undue advantage or expensive gifts to a public official, expecting to receive an undue advantage from the public authority in return. An example is when private sector individuals make political donations with the intent of influencing political decisions, policies or laws.
<b>EMBEZZLEMENT</b>	employees misappropriate anything of value entrusted to them because of their position.
<b>FAVOURITISM, NEPOTISM, CLIENTELISM</b>	a person or group of persons are given unfair preferential treatment at the expense of others.
<b>EXTORTION AND SOLICITATION</b>	an employee requests a payment, undue advantage, expensive gifts or sexual favours in return for performing specific business-related tasks or making particular decisions.
<b>GIFTS AND HOSPITALITY</b>	excessive gifts and hospitality given to employees to influence business decisions or tasks. This kind of gift might be travel, luxury items or tickets to sporting events.
<b>FEES AND COMMISSIONS</b>	agents and intermediaries are paid fees and commissions beyond what is considered the industry standard for the purpose of altering business decisions or tasks. Characterizing a payment as a fee or commission might be a way of disguising the payment of a bribe.
<b>COLLUSION</b>	for example, a labour union employee and a member of the company's management team exchange favours that result in inaccurate representation of employees' interests.
<b>TRADING IN INFORMATION</b>	an employee offers or receives a bribe in exchange for confidential information, where the bribe can take a number of different forms. When confidential information is the basis for trading in a company's stock, bonds, or other securities, it is called "insider trading".

<sup>19</sup> <https://www.unodc.org/unodc/en/treaties/CAC/>

<sup>20</sup> UNODC. Module series on Anti-Corruption. Module 5: Private sector corruption, p.9, <https://grace.unodc.org/grace/en/academia/module-series-on-anti-corruption.html>



## 2. Gender aspects of corruption

In general, gendered impact of corruption is related to societal gender roles, social inequality and discrimination. Thus, women's subordinate position in many spheres of life results in greater vulnerability to corruption compared to men, who enjoy more power and protection. Corruption severely affects the extent to which women's rights are ensured and protected.<sup>21</sup>

International organizations identify four areas in which women are exposed to corruption, namely: 1) when accessing basic services, markets and credit; 2) when engaging in politics; 3) in situations where women's rights are violated (e.g., human trafficking and sexual extortion); and 4) negligence and/or mismanagement.<sup>22</sup>

**Accessing basic services, markets and credit.** Corruption in public service delivery affects women disproportionately more than men. Women are mostly responsible for the care of children and in some phases of their life, especially in their reproductive years, they have greater needs for health services. For women and girls to get access to basic services (e.g., education, health, water, electricity), documentation (e.g., residence, identification documents) and law enforcement, they may not only be forced to bribery, but also exposed to sexual extortion. These acts often go unreported due to the stigma and shame associated with the crimes, making it more difficult to monitor the nature and frequency of such corruption practices.<sup>23</sup>

**Engagement in politics.** Corrupt political parties create an unfair environment for women who are less likely to get promoted through personal connections. Therefore, in countries with a political culture that is not based on merit, women's access to decision-making processes in the government or political system is often limited.<sup>24</sup>

**Violation of women's rights.** Corrupt law enforcement systems have a devastating impact on the protection and advancement of women's rights. Marriage and divorce, allegations of adultery and rape, child custody, human trafficking, inheritance, property rights and financial independence are the areas in which women's social, political and economic rights are most often violated.<sup>25</sup>

<sup>21</sup> UNODC, Module series on Anti-Corruption. Module 8: Gender and Corruption, [https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption\\_Module\\_8\\_Corruption\\_and\\_Gender.pdf](https://grace.unodc.org/grace/uploads/documents/academics/Anti-Corruption_Module_8_Corruption_and_Gender.pdf)

<sup>22</sup> Sida. 2015. Gender and Corruption. Brief. March 2015, p. 2.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

### Negligence and/or mismanagement.

Women and girls make up a larger proportion of refugees and migrants in conflict and post-conflict countries or in the event of a natural disaster. In situations where first responders and peacekeepers are overwhelmingly men, opportunities arise for abuse of power, exposing vulnerable women and girls to sexual and other forms of exploitation.<sup>26</sup>

There are gender differences in attitudes towards corruption, accepting and offering bribes. Regarding the attitudes towards corruption, the analyses show that women show less tolerance towards corruption. For example, according to some research, companies owned by women are significantly less likely to report requests for unofficial payments by public officials.<sup>27</sup> However, the context is important. Thus, in autocracies where corruption is endemic, women and men are equally corrupt, however, in democracies women disapprove of corruption more than men and are less likely to engage in corrupt practices.

In terms of accepting bribes, with some exceptions that are likely to be related to contextual factors, there is no significant difference between men and women. However, women are significantly more likely to behave opportunistically: they may accept the bribe, however without providing the corresponding corrupt favour.<sup>28</sup> This view is also supported by research showing that female civil servants are less likely to return corrupt favours, making them less "reliable corrupt partners". Women are also less likely than men to accept bribes if there is a perceived risk of punishment.

Regarding gender differences in offering bribes, men are more likely than women to offer bribes and the value offered by men tends to be higher than that offered by women.<sup>29</sup> Analyses show that it seems better to be a man in either side of the transaction because both women and men tend to offer higher bribes to male civil



<sup>26</sup> Ibid., p.3.

<sup>27</sup> Boehm, F. 2015. Are men and women equally corrupt? U4 Brief , pp. 2 and 3 .

<sup>28</sup> Ibid., p.3.

<sup>29</sup> Ibid., p.3.

servants than to female civil servants. Such a finding may reflect the importance of cultural context and the expectations about the role that women should play in society.

Although it is evident that women's presence, power and participation are linked to lower levels of corruption, there is no evidence to show that women will not engage in corrupt practices if they are more exposed to corrupt practices, if they occupy senior positions or if they have higher shares in the labour force.<sup>30</sup>



### 3. Corruption in the public and in the private sector

Corruption is equally present in the public and private sector, and there are several contexts that are particularly amenable to corruption.

#### Public procurement and concessions

According to the World Trade Organization, public procurement by governments and state-owned public enterprises of goods, services and the award of concessions on average accounts for 10 to 15% of an economy's gross domestic product.<sup>31</sup> Public procurement is prone to corruption, often in the form of bribery and abuse of power, price fixing, cartels and other anti-competitive practices. The risks increase depending on the volume of transactions, financial interests, the complexity of the process, the close relationship between public officials and the private sector, and the involvement of multiple stakeholders.

<sup>30</sup> Sida. 2015. Gender and Corruption. Brief, p.3.

<sup>31</sup> UN. 2020. Connecting the business and human rights and the anti-corruption agendas A/HRC/44/43, 18 June 2020.

Groups who have been marginalized and discriminated against suffer disproportionately more damage from corruption. Corruption often occurs in the form of illegal commissions in public procurement procedures, which often affects the equal distribution of public resources among the different population segments.<sup>32</sup> Female entrepreneurs make up about one percent of the market worldwide, and women's businesses often face barriers in accessing public tenders and winning contracts.<sup>33</sup>

## Mineral exploitation sector

The mineral exploitation sector is dominated by men, while research shows that women disproportionately feel the negative social and economic impact of this sector.<sup>34</sup> The mineral exploitation sector has been singled out as a sector in which corrupt practices are frequent, particularly in relation to the award of concessions.<sup>35</sup>

## Land acquisition

Corruption might also be linked to land registration, dispute resolution, resource management and investments.<sup>36</sup> Corruption can exacerbate already existing gender inequalities in access to land, which further negatively affects women's economic and social status and the quality of life in their households.<sup>37</sup>

Globally, women own less land and have less secure rights over land than men. On average, women make up about 20% of land holders and make up 43% of the agricultural labour force. Insecurity around land ownership is linked to gender roles and women's access to decision-making.<sup>38</sup>

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<sup>32</sup> Ibid.

<sup>33</sup> OSCE. 2021. Gender and Corruption: What do We Know? A discussion paper.

<sup>34</sup> Oxfam International. 2017. Position Paper on Gender Justice and the Extractive Industries.

<sup>35</sup> UN OHCHR. 2020. Report on connecting the business and human rights and the anticorruption agendas, A/HRC/44/43, June 18, 2020.

<sup>36</sup> OSCE. 2021. Gender and Corruption: What do We Know? A discussion paper, p. 20.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

## Health and pharmaceutical supply chains

Allegations of corruption in the healthcare system are persistent. Paying bribes to gain access to markets, to avoid health and safety inspections, or to introduce counterfeit medical products into the supply chain are some examples of corrupt practices in this sector.<sup>39</sup> The report of the Working Group on Business and Human Rights indicates that corruption may occur in the financial management of health facilities (for example, false recording of revenue to obscure financial position or diversion of patients from public health to private health facilities).<sup>40</sup>

Analyses indicate that women are more likely to interact with health facilities, making them more exposed to corrupt conduct in these sectors than men.<sup>41</sup> On the other hand, the lack of protection, fear of reprisals and the level of confidentiality can have a great impact on women's decision to report corruption.<sup>42</sup> Due to social and economic barriers, it is highly unlikely that women with limited resources would go to court to seek compensation for falsified medical products purchased on trust, which is a source of illicit production and trade of medical products.<sup>43</sup>



<sup>39</sup> UN. 2020. Connecting the business and human rights and the anti-corruption agendas. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. A/HRC/44/43, 17 June 2020.

<sup>40</sup> Sekalala, S. et al. 2020. Human rights mechanisms for anti-corruption, transparency and accountability: enabling the right to health, *Global Health Action*, 13, <https://doi.org/10.1080/16549716.2019.1699343>

<sup>41</sup> UN. 2017. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. A/72/137, 14 July 2017, para. 43.

<sup>42</sup> UNODC. 2021. Speak Up for Health! Guidelines to Enable Whistle-Blower Protection in the Health-Care Sector, United Nations, Vienna.

<sup>43</sup> European Committee on Crime Problems (CDPC). A Gender Perspective on the Counterfeiting/Falsification of Medical Products and Similar Crimes. Concept Note. CDPC (2017) 19. 1 September 2019, p. 3.-

## 4. Gender-sensitive mechanisms for reporting corruption

Gender-sensitive mechanisms for reporting corruption take into account the barriers that women may face when reporting corruption. These mechanisms are sensitive to gender-specific needs in terms of access, security, relevance and trust in the system. The mechanisms also take into account the challenges women face in terms of distance from the reporting mechanism, language and accessibility, to ensure equal access to compensation. The need to travel long distances, arrange childcare, take time off from work and deal with financial challenges to access reporting mechanisms and possibly seek legal assistance can discourage women from reporting corruption.<sup>44</sup>

Gender-transformative mechanisms are those that:

- provide a range of preventive and restorative approaches to justice;
- involve women's rights organizations and gender-sensitive experts in designing mechanisms for access to justice;
- address specific and systematic abuses affecting women;
- suggest ways in which discriminatory power structures can be changed;
- are based on dialogue between the government, state authorities and other stakeholders to reform discriminatory laws.

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<sup>44</sup> Transparency International. 2021. Finding a Voice, Seeking Justice. The barriers women face to reporting corruption in the European Union, Position Paper, pp. 10 and 11.

# INTERNATIONAL FRAMEWORK ON GENDER AND CORRUPTION



This part presents an analysis of the international framework for preventing and combating corruption, in terms of the presence or non-presence of a gender-sensitive approach in the detection, dealing with and reporting corruption in the public and in the private sector.

## United Nations

The UN Convention against Corruption, ratified by North Macedonia in 2007, deals with corruption from a criminal-legal aspect to strengthen measures for more effective and efficient prevention and combating of corruption. Pursuant to Article 35 of the Convention, states are obliged to ensure that victims of corruption have the right to initiate legal proceedings against responsible persons in order to obtain compensation. The Convention establishes a mechanism to track the implementation in a way that the state parties submit reports to the mechanism on their application of particular parts of the Convention. The last publicly available document for North Macedonia is an executive summary from 2015 in English,<sup>45</sup> which however makes no connection between corruption and the gender perspective.

The *Committee on the Elimination of Discrimination against Women*<sup>46</sup> provides interpretation of the provisions of the *Convention on the Elimination of All Forms of Discrimination against Women*, as well as recommendations for the states. According to this Committee, gender statistics play a key role in shedding light on hidden barriers and forms of discrimination, including the gender dimensions of corruption. They require disaggregation of data not only by sex, but also by age, disability, ethnicity, geographic location, and other characteristics.<sup>47</sup> Since gender statistics reflect the differences and inequalities between women and men, including in relation to corruption, they provide the basis for developing gender-responsive strategies, programmes and policies at the national level.

The *UN Human Rights Council* has established several special procedures that set and develop international standards on the topic that is the subject of this analysis, such as the Working Group on Business and Human Rights. The Working Group on Business and Human Rights has a mandate to apply *the Guiding Principles on Business and Human Rights* and promote good practices. The Working Group has developed a gender framework including 31 principles<sup>48</sup> for integrating a gender

<sup>45</sup> UN. 2015. Review of the implementation of the United Nations Convention against Corruption, CAC/COSP/IRG/I/3/1/Add.21, 24 April 2015.

<sup>46</sup> <https://www.coe.int/mk/web/compass/148>

<sup>47</sup> UN Women. 2022. Women and men in North Macedonia: a statistical portrait of trends in gender equality, p. 8.

<sup>48</sup> UN OHCHR. 2019. Report on gender lens to the Guiding Principles on Business and Human Rights, A/HRC/41/43: 24 May 2019.



perspective when applying *the Guiding Principles on Business and Human Rights*, through three entry points, so-called “gender windows”. The first entry point is through the application of the general principle of non-discrimination, the second is based on standards that require to integrate a gender perspective at certain places and the third is that business enterprises, depending on the circumstances, should respect the human rights of persons belonging to specific groups.

In its 2020 Report on business, human rights and corruption, the Working Group on Business and Human Rights states that women and girls feel the negative impacts of business activities differently than men and boys and face additional barriers to access to justice.<sup>49</sup> The report details the obligations of states to prevent human rights violations and corruption by the private sector, corporate responsibility for respecting human rights and access to mechanisms for reporting corruption.

## Council of Europe

The Council of Europe Criminal Law Convention on Corruption and its Protocol<sup>50</sup>, which have been in force in North Macedonia since 2002 and 2006, respectively, aim to establish a coordinated criminalization of corrupt practices. The Convention covers forms of corrupt conduct such as active and passive bribery in the private sector; active and passive bribery of domestic, foreign and international judges and officials of international courts; active and passive trading in influence; money laundering of proceeds from corruption; accounting offenses (invoices, accounting documents, etc.) related to corruption offenses.

The Council of Europe Civil Law Convention on Corruption<sup>51</sup>, in force in North Macedonia since 2003, establishes an obligation for states to enact laws that will enable persons who have suffered damage as a result of acts of corruption to initiate proceedings and obtain compensation for damage.

The gender-specific aspects of corruption are not explicitly recognized in the two Conventions, however, GRECO carries out monitoring of the implementation of both conventions.

GRECO, founded in 1999, establishes an evaluation mechanism by monitoring countries’ compliance with anti-corruption standards and encouraging legislative and institutional reforms. Starting from 2012, GRECO has also focused on the gender dimensions of corruption. In the last, fifth evaluation round, the states,

<sup>49</sup> UN OHCHR. 2020. Report on connecting the business and human rights and the anticorruption agendas, A/HRC/44/43, 18 June 2020.

<sup>50</sup> Council of Europe. 2003. Additional Protocol to the Criminal Law Convention on Corruption, Strasbourg, 15.V.2003.

<sup>51</sup> Council of Europe. 1999. Civil Law Convention on Corruption (ETS No. 174), 4.XI.1999.

including North Macedonia, were asked questions that integrated a gender perspective, and the states were requested to share examples and statistics on the last five years (disaggregated by gender, if possible), in relation to, among others:

- cases initiated, investigations carried out, outcomes in criminal and in other proceedings;
- list of trade unions and professional associations specific to law enforcement with information on their activities and membership numbers;
- internal and external oversight and control mechanisms and their human and financial resources.<sup>52</sup>

However, the Fifth Round Evaluation Report<sup>53</sup> from March 2019 and the Fifth Round Evaluation Compliance Report<sup>54</sup> from March 2021 for North Macedonia, which provide recommendations in relation to preventing corruption and promoting integrity in government bodies and law enforcement authorities, do not include any gender-specific recommendation.

The Council of Europe has issued several recommendations related to gender issues, such as *Recommendation No. R (98) 14 on gender mainstreaming*<sup>55</sup>, *Recommendation CM/Rec (2019) 1 on preventing and combating sexism*<sup>56</sup> and *Recommendation No. R (2000) 19 on codes of conduct for public officials*<sup>57</sup>.

<sup>52</sup> GRECO. 2017. Fifth Evaluation Round. Questionnaire: Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, Strasbourg, 11.12.2017.

<sup>53</sup> GRECO. 2019. Fifth Evaluation Round. Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies. Report: North Macedonia, 22 March 2019.

<sup>54</sup> GRECO. 2021. Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, Compliance Report: North Macedonia, 25 March 2021.

<sup>55</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804ec94a>

<sup>56</sup> <https://rm.coe.int/cm-rec-2019-1-on-preventing-and-combating-sexism/168094d894>

<sup>57</sup> Council of Europe. 2000. Recommendation No. R (2000) 19 of the Committee of Ministers to Member states on codes of conduct for public officials, 11 May 2000.

# THE CONTEXT OF THE REPUBLIC OF NORTH MACEDONIA



## 1. National standards

The analysis of the national legislation relevant to detection, dealing with and reporting corruption showed that no law, strategy, or any other official document, integrates a gender perspective, that is, does not recognize the different needs, roles and responsibilities of women and men.

### Law on Prevention of Corruption and Conflict of Interest

The latest *Law on the Prevention of Corruption and Conflict of Interest*<sup>58</sup>, adopted in January 2019, defines corruption as “misuse of office, public authority, official duty or position for the purpose of gaining benefit, directly or through an intermediary, for oneself or for another” (Article 2). The term corruption also includes the terms of “passive corruption - intentional action of a public official who directly or through an intermediary, requests or receives advantages of any kind, for him or for a third party, or accepts a promise of such an advantage, in order to act or refrain from acting in accordance with his duties or to exercise his powers in a way that is contrary to his official duties” and “active corruption - intentional action of any person who directly or through an intermediary, promises or gives an advantage of any kind to a public official for him or for a third party, in order to act or refrain from acting in accordance with his duties or to exercise his powers in a way that is contrary to his official duties” (Article 2). According to the law, the agreements and other legal acts resulting from corruption, i.e., illegal gains for the legal entity, are null and void and are considered grounds for filing a lawsuit by the injured party for compensation of damages (actual damage and lost profit) to civil courts. Gender-specific aspects of corruption are not considered in the law.

The Law prescribes the establishment of the State Commission for Prevention of Corruption (SCPC), which operates as an independent institution and its membership includes a president and six appointed persons. The Law determines 29 competences that can be divided into six segments of the Commission’s operation and include the development of anti-corruption policies and improvement of the anti-corruption climate, submitting initiatives to other competent authorities, and education and awareness raising about corruption and conflict of interests. The Commission also has competences prescribed by the *Law on Protection of Whistleblowers*<sup>59</sup> and the *Law on Lobbying*<sup>60</sup>.

<sup>58</sup> Law on Prevention of Corruption and Conflict of Interest (Official Gazette 12/2019).

<sup>59</sup> Law on Protection of Whistleblowers (Official Gazette of the Republic of Macedonia No. 196/2015).

<sup>60</sup> Law on Lobbying (Official Gazette No. 122/2021).

## Law on Equal Opportunities for Women and Men

The *Law on Equal Opportunities for Women and Men*<sup>61</sup> regulates the obligations of all entities in the public and private sector in society to ensure the establishment of equal opportunities and rights for women and men in several areas, such as health care and health insurance, access to goods and services, economic and ownership relations, justice and administration, housing, state and public administration. The Law establishes an obligation for gender-responsive budgeting, setting a requirement for state administration bodies to incorporate the principle of equal opportunities for women and men in their strategic plans and budgets. The Law regulates the appointment of coordinator(s) for equal opportunities in all state institutions, as well as in local self-government. The process of gender-responsive budgeting involves ministries and state agencies that are required to conduct a gender analysis of a specific programme, develop gender indicators and monitor the programme implementation.<sup>62</sup> State authorities are obliged to draft annual reports on the activities undertaken and the results achieved in relation to gender equality, however, the reports do not include information about the integration of gender components in areas exposed to a high risk of corruption, such as public procurement procedures, in which all state institutions are involved.<sup>63</sup>

## Law on Protection of Whistleblowers

Adopted in 2016, with amendments in 2018 and 2020, the Law on Protection of Whistleblowers allows reporting of cases of criminal offenses or other unlawful conduct. The Law regulates protected reporting, which refers to reporting of reasonable suspicion or knowledge that a criminal offence or other illegal or impermissible act, which violates or threatens the public interest, has been committed, is being committed, or is likely to be committed. Protected reporting can be internal or external. Protected internal reports are made by a whistleblower in an institution, i.e. in a legal entity, in case of suspicion or awareness that a criminal offense or other illegal or impermissible act, which violates or threatens the public interest, has been committed, is being committed or will be committed. External reports are made outside the institution, i.e., the legal entity, to the competent institutions including the Ministry of Internal Affairs, the State Commission for Prevention of Corruption, the Ombudsman and the Public Prosecutor's Office of the Republic of North Macedonia.

<sup>61</sup> Law on Equal Opportunities for Women and Men (Official Gazette No. 6/12, 166/14, 150/15).

<sup>62</sup> Government of the Republic of North Macedonia, Information on the implementation of the Strategy for Women's Entrepreneurship Development in the Republic of North Macedonia 2019-2023.

<sup>63</sup> Ministry of Economy, Annual plan for corruption risk assessment 2022, p.17.

Public institutions are obliged to designate persons to receive protected internal or external reports, and make their contact details available. They submit semi-annual reports to the State Commission for Prevention of Corruption. Considering the table with the contacts details of the designated persons<sup>64</sup>, it can be noticed that, at the time of writing this report, all persons designated to receive external reports are women, while the ratio men to women is almost identical for the persons designated to receive protected internal reports.<sup>65</sup>

The protection of personal data and identity of whistleblowers is guaranteed, and their close persons are also guaranteed protection from any type of violation of rights or harmful action or risk of harmful actions as a result of the report made.

The Law on Protection of Whistleblowers needs to be further harmonized with EU law, among other things, to provide for civil, criminal and/or administrative liability of an official who has recommended or participated in retaliatory action against a whistleblower.<sup>66</sup>

On the basis of this Law, *the Rulebook on protected internal reporting for public sector institutions*<sup>67</sup> and *the Rulebook on protected external reporting*<sup>68</sup> were developed. The Rulebooks do not establish an obligation for the designated person for protected reporting to submit gender-disaggregated statistical data to the SCPC when preparing the semi-annual reports.

## Criminal Code of the Republic of North Macedonia

*The Criminal Code of the Republic of North Macedonia* (CC)<sup>69</sup> includes several criminal offences related to corruption such as:

- tax evasion (Article 279),
- accepting bribe (Article 357),
- offering bribe (Article 358),
- abuse of office or authority (Article 353),
- embezzlement in service (Article 354),
- fraud in service (Article 355),
- unauthorized use (Article 356),
- forging an official document (Article 361),
- dereliction of duty (Article 353c),

<sup>64</sup> <https://ukazuvac.mk/nadvoreshno-prijavuvanje/>

<sup>65</sup> <https://ukazuvac.mk/wp-content/uploads/2022/10/institucii-so-ovlasteni-lica-za-priem-na-prijavi.pdf>

<sup>66</sup> European Commission. 2022. North Macedonia Report 2022. , p.27.

<sup>67</sup> Ministry of Justice, Rulebook on protected internal reporting for public sector institutions (Official Gazette No. 46/16 of 08.03.2016), Art. 13.

<sup>68</sup> Rulebook on protected external reporting (Official Gazette No. 46/16 of 08.03.2016), Article 6.

<sup>69</sup> Criminal Code (Official Gazette No. 37/96) with amendments.

- fraud in insurance (Article 250),
- abuse of a public procurement procedure, awarding a public procurement contract or public-private partnership (Article 275c),
- unlawful collection and payment (Article 362),
- unlawful acquisition and concealment of property (Article 359-a),
- offering or accepting a reward for unlawful influence (Article 358-a).

The Criminal Code does not recognize sextortion, that is, extortion of sexual services by employees in exchange for providing a public service, as a gender-based form of corruption, and the gender aspect is not explicitly included in the above-mentioned criminal offences. In a recent OSCE analysis, it was established that sextortion is recognized by 78% of respondents<sup>70</sup> who believe that it is most present in the state administration, followed by the education and health sector.<sup>71</sup>

## Strategies

*The National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025* defines twelve goals, including strengthening integrity and accountability in the public sector, reducing corruption in public procurement, in the process of awarding grants, subsidies and other assistance, promoting integrity in the private sector and raising public awareness and delivering anti-corruption education. Neither the Strategy nor the Action Plan, which is an integral part of the Strategy, includes a gender perspective.

*The National Strategy for Gender Equality 2022-2027*<sup>72</sup> and *the National Action Plan for Gender Equality 2020-2024* do not explicitly contain goals, expected results and indicators related to combating corruption, nor are gender dimensions of corruption and reporting mechanisms included in these documents. It can be noted that, from the aspect of criminal offences, the Strategy focuses on taking measures for prevention and protection from gender-based violence, protection of victims of human trafficking and elimination of sexist hate speech in workplaces, in sports, in the media and in accessing goods and services.

*The National Strategy for Equality and Non-Discrimination 2022-2026* takes into account all grounds of discrimination in the areas of employment and labour relations, education, sport and culture, social security, justice and administration and access to goods and services.

<sup>70</sup> The research includes 1,013 respondents. OSCE. 2020. Gender aspects of the corruption with reference to the Republic of North Macedonia. OSCE Mission to Skopje.

<sup>71</sup> OSCE. 2022. Gender and corruption: research for the Republic of North Macedonia, OSCE Mission to Skopje, pp. 14-17.

<sup>72</sup> Strategy for Gender Equality 2022-2027 (Official Gazette No. 170/22 of 28 July 2022).

## 2. Corruption in the public and private sector

The high risks of corruption in the public and private sector in North Macedonia result from the incomplete digitalization of the procedures for issuance of permits, certificates and other services provided by the public administration to minimize contact between the applicant and the service provider, as well as from the lack of transparency in the procedures for granting state aid.<sup>73</sup> Furthermore, there is no register of state-owned property in the country, nor is there any systematized information on the way that property is managed and disposed of. Finally, it is necessary to advance the process of development of economic policies by increasing transparency in the policy development processes and raising awareness of smaller enterprises to ensure their more active participation in these processes.

There are several sectors and contexts that are particularly susceptible to corruption.

### Public procurement and concessions

The country lacks aggregated data on the representation of women in management structures of companies.<sup>74</sup> There is a Department for Development and Competitiveness of Small and Medium-sized Enterprises in the Ministry of Economy, which also covers women's entrepreneurship, with a mandate to promote women's entrepreneurship, in accordance with the *Strategy for Women's Entrepreneurship Development 2019-2023*, by including incentive measures in public calls and digitalization of processes for women entrepreneurs. The requirement for applying is that the company is founded and managed by a woman and that it has at least two employees. This Department does not deal with public procurement procedures and granting concessions, for which other departments are responsible.

A recent report from 2022 identified certain corrupt practices that are actively used in Southeast Europe related to use of public funds for private benefit, such as favouritism and clientelism, fixing tender specifications and "inflated" contract prices. In relation to the latter form, the report notes that in North Macedonia there are large differences between market prices and contract prices of some products with identical specifications.<sup>75</sup>

<sup>73</sup> SCPC, National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025, <https://dksk.mk/wp-content/uploads/2021/01/Nacionalna-strategija-DKSK-KONECNA.pdf>

<sup>74</sup> Ministry of Economy, Strategy for Women's Entrepreneurship Development in the Republic of Macedonia 2019-2023.

<sup>75</sup> Centre for the Study of Democracy, 2022. Public Procurement Integrity in Southeast Europe, Mechanisms, Red Flags, and State-Owned Enterprises in the Energy Sector, pp.12.



Based on international reports and legal provisions, state authorities are obliged to adopt programmes for annual plans and risk assessment. In addition, in accordance with Action 21<sup>76</sup> adopted by the Government of North Macedonia, all contracting parties at the central and local level are required to adopt internal procedures for conducting public procurement procedures as a way to combat corruption. Based on several examined procedures of ministries, it can be concluded that the request for initiating a public procurement procedure should specify, among other things, the criteria for awarding a public procurement contract, requirements for qualitative selection (economic and financial position, technical and professional ability and standards for quality management and environmental management), however, the criteria are not specified in more detail, nor the operator's anti-corruption policies are taken into account, for example by requiring operators to provide information whether they have established policies and procedures for detection and reporting of corruption.<sup>77</sup>

In addition, in 2022, the Ministry of Economy established a Register of Corruption Risks<sup>78</sup> that provides anti-corruption control mechanisms, for example, based on a Code of Ethics or training delivery. There is no information whether gender issues are taken into account in the implementation of these control mechanisms.

## Mineral exploitation sector

While some countries establish an obligation for companies operating in the mineral exploitation sector to conduct due diligence on human rights, which would also provide information on how companies deal with corruption and how they mainstream gender into their policies and processes, the legislation in force in North Macedonia does not establish such an obligation for companies.



<sup>76</sup> <https://vlada.mk/akcijaz1>

<sup>77</sup> Ministry of Economy, Guidelines for implementation of public procurement procedures in the Ministry of Economy, No. 28-540/11 of 28.01.2021.

<sup>78</sup> Ministry of Economy, Register of Corruption Risks in the Ministry of Economy, July 2022.

## Land acquisition

*The national Strategy for Prevention of Corruption and Conflict of Interest 2021-2025* identifies several problem areas in the field of agriculture related to redefining the system for sale of state-owned agricultural land and establishing effective supervision over the purpose of land use and the fulfilment of contract obligations for the use of state-owned agricultural land, as well as the frequent amendments to the regulation and imprecise criteria for granting subsidies.<sup>79</sup> The Strategy does not take into account how the identified problems affect women and men. On the other hand, data show that in 2021, less than 30% of ownership rights in North Macedonia were held by women and only 12% of women owned land.<sup>80</sup>

## Healthcare and pharmaceutical supply chains

*The National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025* identifies several problems in the health sector that generate a high risk of corruption, among which, the lack of transparent and expedient criteria for use of public funds, the need to adjust the system of price formation and public procurement of medicines to the practices and regulations in developed countries, the conditions and the method of receiving donations in public health institutions and the public availability of data on donations, as well as the absence of a system for efficient monitoring of the marketing approach to the sale of medicines.<sup>81</sup> Gender is not mainstreamed in this sector, although research shows that women are disproportionately affected and face corrupt practices in the access to health services.

## Judiciary

According to a recent assessment of corruption risks in the judiciary, the top five external corruption risks caused by factors outside the court relate to the work of expert witnesses, attorneys and public prosecutors.<sup>82</sup> The other risks are internal and are primarily related to the role of court presidents and the leniency of judges towards the parties involved in the procedure. The work of expert witnesses and their preparation of inappropriate findings and opinions are assessed as the highest risk for corruption, followed by the insufficient cooperation between the public prosecutor's offices and other competent enforcement bodies in the

<sup>79</sup> SCPC, *National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025*, p.39.

<sup>80</sup> UN Women. 2019. *Measuring women's empowerment in agriculture with survey-based and experimental economics method*.

<sup>81</sup> SCPC, *National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025*.

<sup>82</sup> OSCE. 2023. *Corruption Risk Assessment of the Judiciary in the Republic of North Macedonia*, p.57.

preliminary procedure. Insufficient application of the “plea bargaining” institute by the public prosecutor’s office is assessed as the highest internal corruption risk for the public prosecutor’s office. The assessment does not present any data on the gender of the judges and public prosecutors who responded to the questionnaires.

### 3. Institutional framework and stakeholders

This analysis considers the relevant stakeholders through the prism of the role they play, that is, they should play, in mainstreaming gender in the prevention and combating of corruption and building mechanisms for reporting corruption, namely:

- development and implementation of the legislative framework on gender and corruption;
- development of mechanisms for reporting corruption, access to justice and prosecution of perpetrators of crimes related to corruption;
- strengthening the capacities of state authorities through advocacy and building partnerships.

It emerged from the analysis that all relevant parties within their mandates and competences have opportunities to build awareness about the gender aspects of corruption. The institutions are analysed separately below, taking into account the above-mentioned ways of combating corruption and gender mainstreaming.

#### Development and implementation of legislative framework and policies on gender and corruption

##### Assembly of the Republic of North Macedonia

There are several working bodies that operate in the Assembly of the Republic of North Macedonia, such as the Committee on Equal Opportunities for Men and Women,<sup>83</sup> with the mandate, among other things, to discuss proposals of laws and other regulations adopted by the Assembly in the field of labour and social policy, education and health, family and childcare, and other regulations relevant to gender mainstreaming. In addition, in 2003, the Women Parliamentarians’

<sup>83</sup> <https://sobranie.mk/detali-na-komisija.nspx?param=e325eceb-296e-444a-abde-5f20371919c5>

Club<sup>84</sup> was established as an informal group made up of all female MPs with the aim of achieving gender equality and advancing women's rights through relevant legislation, their active involvement in decision-making processes in the country, and strengthening democracy in all spheres of Macedonian society.

## Government of the Republic of North Macedonia

In the Government of the Republic of North Macedonia, Deputy Prime Minister in charge of good governance policies has been appointed, whose competence also includes combating corruption. In 2023, a regional Forum on Women Leaders on Good Governance and Anti-Corruption was established for networking, exchange of good practices, and to ensure greater inclusion of women in decision-making processes in relation to combating corruption and ensuring good governance.

## Ministry of Labour and Social Policy

The Ministry of Labour and Social Policy (MLSP) works in the field of equality, non-discrimination, and equal opportunities. The Ministry has a mandate to initiate and implement laws, policies and activities for raising awareness about gender equality for the general public and central and local level institutions. The Ministry has a specific Department for Equal Opportunities, which is the main body of the gender machinery of North Macedonia.

MLSP in partnership with UN Women in North Macedonia, has established a Resource Centre for Gender Responsive Policy Making and Budgeting,<sup>85</sup> which delivers training related to gender equality and gender responsive budgeting and provides research, analysis and other resources related to these topics. The primary target group of the Resource Centre are civil servants. Thus, by the end of 2022, 18 training courses on gender equality were delivered for 199 public administration employees at the central level. In addition, 13 training courses on topics related to discrimination were delivered and 202 participants from the public administration at the central level, municipal representatives, and Roma mediators were trained. Although the Resource Centre also envisages training courses for the private sector, so far no training has been developed for the business sector, nor is there any training on the topic of gender and corruption.

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<sup>84</sup> <https://sobranie.mk/za-klubot.nspix>

<sup>85</sup> <https://mtspresursencentar.mk/>

## Public Procurement Bureau

The Public Procurement Bureau performs administrative control over public procurement procedures based on risk assessment of violations of the Law on Public Procurement. Since January 2023, a “red flag” system has been used to identify risky procedures and contracting authorities, on the basis of which about 40 public procurement procedures have been marked for administrative control.<sup>86</sup> The Bureau issues recommendations for improving the provisions of tender documents.<sup>87</sup> Based on publicly available information, it can be concluded that gender equality is not taken into account as an indicator or criterion when assessing corruption risks.

## Access to justice and prosecution of perpetrators of crimes

The country has state judicial and non-judicial mechanisms in place for access to justice based on which a procedure can be initiated individually (for example, with the Constitutional Court of North Macedonia or civil courts) or ex officio (for example, based on reports of corruption filed by state authorities such as the SCPC or the Ombudsman to the Ministry of Internal Affairs, by the Public Prosecutor’s Office acting ex officio or based on received reports from whistleblowers).

In relation to the private sector, international standards establish obligations for companies to develop operational complaints mechanisms so that all interested parties can file a report on human rights violations, as well as corruption reports. For example, Pillar III of *the Guiding Principles on Business and Human Rights* focuses on the issue of access to effective remedy against business-related human rights abuses and reporting corruption.<sup>88</sup> Remedy may take various forms, including restitution, rehabilitation, financial or non-financial compensation and punitive sanctions, as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. According to *the Guiding Principles on Business and Human Rights*, in order to ensure effectiveness of operational complaints mechanisms, they should meet eight criteria, including transparency, accessibility, equity and predictability, and gender mainstreaming.

Below is an analysis of judicial and non-judicial mechanisms for reporting corruption with particular emphasis on the existence or absence of a gender-sensitive approach.

<sup>86</sup> Ministry of Finance, Public Procurement Bureau. 2023. Red Flags Report.

<sup>87</sup> Ibid.

<sup>88</sup> Konekt, 2019. Guiding Principles on Business and Human Rights, Implementing the United Nations “Protect, Respect and Remedy” Framework.

## Constitutional Court of the Republic of North Macedonia

Pursuant to Article 110 paragraph 3 of the Constitution of North Macedonia and Article 51 of the Rules of Procedure of the Constitutional Court, any person who considers that his human right has been violated, such as freedom of conviction, conscience, thought and public expression of thought, political association and activity and the prohibition of discrimination of citizens on the ground of sex, race, religion or national, social or political affiliation, by an individual act or action, may address the Constitutional Court and seek protection of his rights. The application (request) is filed within two months from the day of delivery of a final or legally binding individual act, that is, from the day of learning that an action has been taken to commit the violation, however, no later than five years from the day of taking the action.

On the basis of a request for free access to information filed for the purposes of this analysis, the Constitutional Court submitted tabular summary of the total number of applications for protection of freedoms and rights, broken down by sex, for the period from 2003 to 30 June 2023.<sup>89</sup> Since several applicants can be noticed for some of the applications, these cases shall be singled out in a footnote, which will show the number of applicants, broken down by sex.

Year	Total number of applications filed	Male	Female
2003	12 <sup>90</sup>	11	2
2004	9 <sup>91</sup>	16	8
2005	11 <sup>92</sup>	12	2
2006	6 <sup>93</sup>	6	3
2007	10 <sup>94</sup>	7	5
2008	5	5	/
2009	15	9	6
2010	9 <sup>95</sup>	9	1
2011	23 <sup>96</sup>	14	10

<sup>89</sup> Ruling of the Constitutional Court of the Republic of North Macedonia Sui. No. 9/23/2 of 30 June 2023.

<sup>90</sup> In the case U. No. 36/2003, two applicants (male and female).

<sup>91</sup> In the case U. No. 67/2004, 16 applicants (7 female and 9 male).

<sup>92</sup> In the case U. No. 53/2005, two applicants (male), in the case U. No. 192/2005, two applicants (male and female)

<sup>93</sup> In the case U. No. 64/2006, two applicants (male), in the case U. No. 71/2006, two applicants (male and female), in the case U. No. 227/2006, two applicants (male).

<sup>94</sup> In the case U. No. 77/2007, two applicants (male), in the case U. No. 232/2007, two applicants (female).

<sup>95</sup> In the case U. No. 230/2010, two applicants (male).

<sup>96</sup> In the case U. No. 47/2011, two applicants (female).

2012	25 <sup>97</sup>	21	3
2013	21 <sup>98</sup>	32	27
2014	13 <sup>99</sup>	11	3
2015	13 <sup>100</sup>	12	5
2016	8 <sup>101</sup>	6	1
2017	5 <sup>102</sup>	4	2
2018	11 <sup>103</sup>	53	19
2019	19 <sup>104</sup>	27	7
2020	18 <sup>105</sup>	17	12
2021	12 <sup>106</sup>	10	3
2022	7 <sup>107</sup>	6	3
2023	6	1	5

In the context of corruption, a series of violations of human rights can occur, such as violations of freedom of expression and discriminatory treatment on the basis of which an application can be filed to the Constitutional Court. However, in the judicial practice of the Constitutional Court, no case has been identified in which the corrupt practices of a natural or legal person are stated as the reason for filing the application.

<sup>97</sup> In the case U. No. 61/2012, the applicant is a legal entity..

<sup>98</sup> In the case U. No. 5/2013, 28 applicants (16 female and 12 male), in the case U. No. 65/2013, three applicants (two female and one male), in the case U. No. 75/2013, 5 applicants (male), in the case U. No. 89/2013, four applicants (male), in the case U. No. 125/2013, 7 applicants (6 female and 1 male). In the cases U. No. 27/2013, 130/2013, 138/2013 and 157/2013, the applicants are legal entities.

<sup>99</sup> In the case U. No. 165/2014, two applicants (male).

<sup>100</sup> In the case U. No. 69/2015, 7 applicants (2 female and 6 male). In the cases U. No. 2/2015 and 25/2015, the applicants are legal entities.

<sup>101</sup> In the case U. No. 59/2016, the applicant is a legal entity.

<sup>102</sup> In the case U. No. 22/2017, two applicants (male and female), in the case U. No. 116/2017, two applicants (male). In the case U. No. 50/2017, the applicant is a legal entity.

<sup>103</sup> In the case U. No. 42/2018, 10 applicants (male), in the case U. No. 71/2018, 8 applicants (1 female and 7 male), in the case U. No. 86/2018, 7 applicants (1 female and 6 male), in the case U. No. 131/2018, 22 applicants (8 female and 14 male), in the case U. No. 132/2018, 19 applicants (8 female and 11 male).

<sup>104</sup> In the case U. No. 2/2019, 4 applicants (1 female and 3 males), in the case U. No. 52/2019, 5 applicants (male), in the case U. No. 57/2019, two applicants (1 female and 1 male), in the case U. No. 108/2019, 3 applicants (male), in the case U. No. 125/2019, 4 applicants (male), in the case U. No. 133/2019, two applicants (female), in the case U. No. 139/2019, 3 applicants (1 female and 2 male). In the case U. No. 5/2019, the applicant is a legal entity.

<sup>105</sup> In the case U. No. 250/2020, 13 applicants (5 female and 8 male). In the case U. No. 313/2020, the applicant is a legal entity.

<sup>106</sup> In case U. no. 137/2021, two applicants (1 female and 1 male).

<sup>107</sup> In the case U. No. 14/2022, 3 applicants (male).

## Civil and Criminal Courts

Judicial procedures for access to justice should be independent and protected from corruption and political or other attempts to influence the outcome, and the state should ensure that corruption in judicial processes is not an obstacle to the administration of justice.<sup>108</sup> *The Law on Courts* establishes that the objectives and functions of the judicial authority, among others, are to ensure equality, equity, and non-discrimination on any basis. Everyone has the right to equal access before the court in the protection of their rights and legally based interests.

In the period from 2019 to 23 June 2023, the Basic Civil Court Skopje, the largest civil court in terms of the number of cases in the country, completed 2,979 cases on the basis of non-material damage and 1,223 on the basis of material damage.<sup>109</sup> However, the AKMIS operating system does not generate data, i.e. it needs an upgrade to be able to generate data in relation to completed procedures, preferably disaggregated by sex, for compensation for damages due to nullity of contracts and other legal acts that result from corruption, according to the *Law on Prevention of Corruption and Conflict of Interest*.

On the basis of the request for free access to information filed for the purposes of this analysis, the Basic Criminal Court Skopje submitted data on completed cases of corruption-related criminal offences in the period from 2013 to 2023. It was clarified that the AKMIS system does not record the perpetrators of criminal offences by sex, and to obtain these data, all completed cases should be individually inspected.<sup>110</sup> Inspection of the cases would also be needed to obtain information whether corruption is related to the public or the private sector.

The table below presents a summary of completed criminal cases and convicted natural persons/legal entities. It can be established that in the period from 01.01.2013 to 21.06.2023 out of a total of 1,624 completed cases in the Basic Criminal Court Skopje, legal entities were convicted in only 12 cases.

<sup>108</sup> UN. 2020. Connecting the business and human rights and the anti-corruption agendas. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. A/HRC/44/43, 17 June 2020.

<sup>109</sup> Ruling of the Basic Civil Court Skopje SPI No. 15/23 of 23.06.2023 which approves a request for access to public information.

<sup>110</sup> Response PJI 26/2023 of 26.06.2023 of the Basic Criminal Court Skopje with an attached Excel sheet.



Criminal offence	Number of convicted natural persons	Number of convicted legal entities
Offering a reward for unlawful influence	1	0
Offering bribe	14	0
Abuse of a public procurement procedure, awarding a public procurement contract or public-private partnership	3	3
Misuse of office or authority	1188	8
Unlawful influencing witnesses	38	0
Dereliction of duty	103	1
Laundering money and other proceeds of crime	123	0
Unauthorized use	9	0
Bribery in connection with elections and voting	2	0
Accepting a reward for unlawful influence	9	0
Accepting a bribe	90	0
Embezzlement in service	32	0
<b>TOTAL</b>	<b>1612</b>	<b>12</b>

Based on the request for free access to information, the Basic Court Shtip provided information that in the period from 01.01.2013 to 06.27.2023, four final judgments were passed for corruption-related criminal offences, all of them for the criminal offence “accepting a bribe”, and four men were convicted.<sup>111</sup> In the same period, no criminal charges were brought against a legal entity.

Based on the request for free access to information, the Basic Court Bitola provided information that in the period from 01.01.2013 to 06.27.2023, one final judgment was passed against one male person for the criminal offence “abuse of office or authority”<sup>112</sup>. In the same period, no criminal charges were brought against a legal entity.

<sup>111</sup> Response to a request for free access to information STI No. 12/23 of 27 June 2023 from the Basic Court Shtip.

<sup>112</sup> Response to a request for free access to information STI No. 16/23 of 26 June 2023 from the Basic Court Bitola.

Based on publicly available information, as well as based on information provided in accordance with the Law on Free Access to Public Information, it can be concluded that the courts<sup>113</sup> and public prosecutor's offices do not have any decision-making protocol in place, which integrates a gender perspective (to provide for addressing arguments based on gender stereotypes and avoid attempts to disregard the right to equality). The Basic Civil Court Skopje, the Basic Criminal Court Skopje, the Basic Court Bitola and the Constitutional Court clarified that although there is no protocol in place, the relevant legal provisions of the current legislation are applied, which are not selective but ensure equal treatment of all parties in the procedures before the courts. A more detailed elaboration of the application of a gender-sensitive approach in reporting, conducting procedures and passing judgments related to corruption is not contained in the responses.

## The Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption

Since 2007, the Basic Public Prosecutor's Office for Prosecuting Organized Crime and Corruption has grown into a special prosecutor's office for handling cases related to organized crime and corruption on the entire territory of the Republic of North Macedonia. Based on publicly available information it is not possible to determine the number of criminal charges filed to competent courts for crimes related to corruption.

## Ministry of Internal Affairs

The Ministry of Internal Affairs is a competent law enforcement institution for prosecution of perpetrators of criminal offences in close cooperation with the prosecutor's offices. The Ministry includes a special Department for Combating Organized and Serious Crime.

Based on the request for free access to information, the Ministry of Internal Affairs submitted a response including a tabular summary of registered criminal offences and persons against which criminal charges were brought related to misuse of office or authority including elements of corruption or typical corruption.<sup>114</sup>

<sup>113</sup> As of the day of completion of this report, the Constitutional Court of North Macedonia, the Basic Civil Court Skopje, the Basic Criminal Court Skopje, the Basic Court Shtip, the Basic Court Bitola and the Ministry of Internal Affairs made decisions on the request for free access to information.

<sup>114</sup> Decision of the Ministry of Internal Affairs in response to a request for free access to public information Reg. No. 16.1.2-868/3 of 03.07.2023.

Corruption abuses	Criminal offences	Perpetrators	Typical corruption	Criminal offences	Perpetrators
2013	45	106	2013	25	57
2014	60	108	2014	27	31
2015	38	119	2015	14	22
2016	43	78	2016	18	36
2017	52	148	2017	9	12
2018	135	266	2018	11	13
2019	123	251	2019	10	11
2020	70	119	2020	9	8
2021	107	198	2021	15	18
2022	86	118	2022	17	24
01.01-20.06.2023	27	55	01.01-20.06.2023	10	12
TOTAL	786	1.566	TOTAL	165	244

From the data presented it can be seen that in the period from 01.01.2013 to 06.20.2023, a total of 1,810 perpetrators of criminal offences related to corruption were registered in the Ministry of Internal Affairs, however data are not broken down by sex, and also there is no information whether the perpetrator is a legal entity or natural person.

## State Commission for Prevention of Corruption

The SCPC initiates and processes cases involving suspicion of corruption on its own initiative or based on obtained information from the media (through rumour) or reports from citizens, legal entities or civil society organizations. In 2022, 583 cases were initiated, of which 563 based on reports from citizens and 20 cases based on the Commission's own initiative.<sup>115</sup> The largest number, a total of 83 cases, refer to the judiciary. Out of a total of 583 cases, 209 reports were rejected due to lack of competence, 232 were discontinued because the allegations were not confirmed and 67 reports were filed to other authorities to take actions under their remit. Twelve initiatives were filed to the relevant Public Prosecutor's Offices, mostly against persons from public institutions, a large part pursuant to Article

<sup>115</sup> SCPC, Annual report on the work of the State Commission for Prevention of Corruption for 2022, March 2023.

353-c of the Criminal Code for the crime of “dereliction of duty”. Six initiatives were undertaken to ascertain the accountability of officials. Based on publicly available information and on an interview, it was determined that, at the time of writing this report, gender is not taken into account in the development of anti-corruption policies and improvement of the anti-corruption climate, the data that received and produced by the institution, in accordance with the *Law on Prevention of Corruption* and the *Law on Protection of Whistleblowers*, are not gender disaggregated, and the recommendations to the institutions are not prepared in a way that takes into account the gender perspective. Currently, there is no designated person for gender issues in the institution.

In addition to serving as a channel that receives reports of corruption, the SCPC also works on capacity building. Thus, as of July 2022, the SCPC has been promoting the Training Centre together with the E-platform. At the time of the analysis, modules are being developed for the E-platform, for the public administration, but also for all interested parties, and it is planned to include modules on gender and corruption. An Analytics Centre has also been established, which at the moment is not staffed, and its purpose is to process data, including, among other things, their desegregation by sex.

## Access to justice through whistleblowers

According to the SCPC’s Annual Report, in 2022 the institutions reported 34 whistleblower cases and the public and private sector institutions submitted 236 semi-annual reports directly to the SCPC.<sup>116</sup> There is still no data on whether and how whistleblowers are protected from retaliatory actions.<sup>117</sup>

## Ombudsman

The Ombudsman, i.e., the People’s Defender, is an institution where citizens can submit a complaint about their rights violated by state authorities. The Ombudsman does not have a mandate to act against legal entities. There are about 3,000 cases per year, showing an upwards trend. The Ombudsman has no jurisdiction in the area of combatting corruption, except in two cases: 1) if a human right is violated due to a corrupt action, in which instance a case is initiated, evidence is collected and the case is compiled and forwarded to a competent authority for action; and 2) as one of the competent institutions for protection of whistleblowers, in accordance with the *Law on Protection of Whistleblowers*. In the latter case, a classified case is created, evidence is collected to determine whether the person’s human rights are violated, and the part related to a corruption offence is submitted to the SCPC.

<sup>116</sup> SCPC, Annual report on the work of the State Commission for Prevention of Corruption for 2022, March 2023, pp. 42-47.

<sup>117</sup> European Commission. 2022. North Macedonia Report 2022, p.27.

There are rare cases processed by the Ombudsman in which there is a correlation between violation of human rights and corruption. For instance, there was a case where a person made a report pursuant to the *Law on Protection of Whistleblowers*, however, it was registered as a labour dispute because the person publicly disclosed the case on social media and the conditions for protection under the Law were not met. The person had initiated court proceedings, which opened the possibility for the Ombudsman to act through the institute “friend of the court” (*amicus curiae*) by giving an opinion on violations of human rights, including those in the context of corruption, which the court should take into account when making the decision. In the specific case, the court procedure for a labour dispute ended in favour of the citizen, even before the Ombudsman had the opportunity to become involved as a “friend of the court”.

There was also a case following a report by a citizen employed with the Army, where elements of correlation between employment and corruption were identified. The Ombudsman determined that there was no violation of labour rights because the person was reassigned to a new job position, according to NATO recommendations. Regarding the allegations of corruption, the person was instructed to address the Ministry of Internal Affairs and the Public Prosecutor’s Office because there was no evidence, and the Ombudsman has no investigative powers.

When it comes to the Ombudsman, the gender aspect is applied in two instances, namely in the collection of statistical data disaggregated by sex for the purposes of preparing an annual report that is submitted to the Assembly; and if the case is related to discrimination. The Ombudsman has acted on many cases of discrimination including gender elements, however, they are not related to corruption. When discrimination with gender elements is ascertained, a recommendation is given with instructions to stop the violation, and in the event of a mass occurrence, the case is publicly announced and submitted to higher instances such as the relevant ministries, the Government and ultimately to the Assembly. In cases of discrimination, in addition to the Ombudsman, the Commission for Prevention and Protection against Discrimination can take action, which, however, can lead to different opinions.<sup>118</sup>

The Ombudsman has not yet given any recommendations, proposals, opinions and indications on how to remove the ascertained violations, if the violations of human rights were made due to corruptive practices. There is no internal act on gender issues because it is an institution that acts equally on all human rights and for all citizens. Awareness is raised about human rights in general, not specifically about gender equality, through a media campaign on a national television and an internet portal, and cooperation with educational institutions and the non-governmental sector has been established.

<sup>118</sup> The Ombudsman and the Commission for Protection against Discrimination have signed a Memorandum of Understanding.

## Access to justice through operational complaints mechanisms in the private sector

Companies that have complaints mechanisms for corruption in place operate in accordance with international standards, care is taken that the mechanisms are accessible and non-discriminatory, that the composition of the bodies that receive complaints is gender-balanced, etc., but when designing the internal mechanisms, the companies are also guided by the real risks that the company faces, i.e., they adapt and introduce changes to deal with the specific corrupt practices they face.

## Strengthening the capacities of state authorities, advocacy and partnership building

### Academy for Judges and Public Prosecutors

The Academy for Judges and Public Prosecutors provides professional development of candidates for judges and public prosecutors, conducts initial and continuous training to improve the expertise of judges and public prosecutors, professional services in the judiciary and public prosecution, specialized training for lay judges and other training courses. The training courses cover issues of gender and corruption, the national and international framework for preventing and combating corruption and gender issues is discussed, however, gender is often a concept intertwined with several laws and areas (migration, social protection, health, abuse of women). The Academy has established cooperation with several organizations. For instance, in cooperation with the Council of Europe, through the HELP programme, several training courses were organized that indirectly cover certain elements related to combating corruption (such as the course on procedural guarantees in criminal proceedings with 40 trained judges) and gender elements (for example, the non-discrimination course attended by 33 women and 25 men judges<sup>119</sup>). There is no specific HELP course in the Macedonian language addressing corruption<sup>120</sup> and gender. In cooperation with the OSCE, the Academy works on the development of a diversity strategy, in terms of conditions for enrolment and access to services provided by the Academy, and for staff, with a focus on gender issues and the rights of persons with disabilities.

<sup>119</sup> Data shared by the Council of Europe for the HELP programme.

<sup>120</sup> [https://www.coe.int/en/web/human-rights-rule-of-law/-/new-council-of-europe-help-course-on-introduction-to-corruption-prevention-](https://www.coe.int/en/web/human-rights-rule-of-law/-/new-council-of-europe-help-course-on-introduction-to-corruption-prevention)

## Bar Association of North Macedonia

The North Macedonia Bar Association, in cooperation with the Council of Europe, through the HELP programme, has conducted several online training courses that indirectly cover certain elements related to combating corruption (such as the course on procedural guarantees in criminal proceedings with 49 women lawyers and 31 men lawyers trained, the course on women's access to justice, with 63 women lawyers and 20 men lawyers trained and the business and human rights course, with 32 women lawyers and 31 men lawyers trained) and gender elements (for example, the non-discrimination course, with 71 women lawyers and 70 men lawyers trained).<sup>121</sup>

## Civil society

In the Republic of North Macedonia there is an informal network of 18 non-governmental organizations<sup>122</sup>, which serves as a place for cooperation and strengthening the position of civil society in the fight against corruption. It happens that citizens turn to the network to report corruption, and the network then refers the citizens to specific network members that provide free legal aid or refers them to the relevant institutions. Based on the discussion with representatives from the non-governmental sector, and based on the analysis of available documents, it is established that the non-governmental sector is a key player in the fight against corruption, which takes actions "for the greater good, and not harm"<sup>123</sup> and serves as a bridge between the state and state institutions with advocacy capacities.

The Helsinki Committee for Human Rights has prepared a public policy document on the criminalization of sexual blackmail as a separate crime in the CC with the intention of making the appropriate amendments in the *Law on Prevention of Corruption*.<sup>124</sup> Also, as a provider of primary free legal aid, the Helsinki Committee has received reports of corrupt behaviour and provides legal advice for further action, with the data of reporting persons disaggregated by sex and area of activity.

In the period from 2019 to 2021, the organization Konekt, together with the Centre for Civil Communications and with the support of the EU, implemented a project to strengthen integrity and reduce corruption in the public and the private business sector, which included about 200 representatives of the business community, and under which training was conducted and an online corruption assessment tool<sup>125</sup> was developed, among other things. The project had no gender component.

<sup>121</sup> Data shared by the Council of Europe for the HELP programme.

<sup>122</sup> Platform of civil society organizations for fight against corruption, <https://www.antikorupcija.mk/en>

<sup>123</sup> An extract from one of the interviews conducted for the purposes of the analysis.

<sup>124</sup> Markoski, A. 2022. Legal regulation of sexual extortion in the national legislation, Policy Paper, Helsinki Committee on Human Rights.

<sup>125</sup> Konekt, Corruption Risk Assessment, <https://bezkorupcija.mk/category/procenka-na-rizikot-od-korupcija/>

The Institute for Democracy “Societas Civilis” Skopje operates a Centre for Good Governance that has worked on the topic of anti-corruption for more than ten years through research<sup>126</sup>, capacity building (primarily with the Assembly and SCPC), advocacy and project management. The gender dimensions of corruption are not often covered, as this depends on the decision of the individual researchers, however, this year a Gender Balance Policy was adopted, which aims to integrate gender dimensions in all research in the activities of the Institute.

## International organizations

The OSCE mission to Skopje, in cooperation with relevant stakeholders, has conducted several research activities relevant to the topic of gender and corruption, namely, gender forms of corruption<sup>127</sup>, perceptions of gender forms of corruption<sup>128</sup> and sexual extortion as a form of corruption in the higher education and public administration sectors.<sup>129</sup>

The Council of Europe Programme Office in Skopje is implementing a horizontal programme against economic crime which is in its third phase, with the aim of strengthening the capacities of the institutions to prevent and combat economic crime and improve the legislative and operational framework for preventing and combating corruption.<sup>130</sup> The recommendations provided in the reports of GRECO and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism – MONEYVAL serve as roadmaps in the implementation of activities. A working group has been established including representatives from the public and private sector, led by the Ministry of Justice and the SCPC, to work on amendments to the *Law on Protection of Whistleblowers*. At the moment, the gender perspective is not integrated in the activities, although it is planned to develop activities where it would be included.

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<sup>126</sup> IDSCS. 2023. Anti-corruption 2030: a foresight analysis of future and current corruption-related challenges.

<sup>127</sup> OSCE. 2020. Gender aspects of the corruption with reference to the Republic of North Macedonia. OSCE Mission to Skopje.

<sup>128</sup> OSCE. 2022. Gender and corruption: research for the Republic of North Macedonia. OSCE Mission to Skopje.

<sup>129</sup> OSCE. 2023. Survey reports on the perception of gender forms of corruption in the Republic of North Macedonia – Higher education and public administration sectors. OSCE Mission to Skopje.

<sup>130</sup> Council of Europe, Action against Economic Crime in the Republic of North Macedonia – Phase III, <https://www.coe.int/en/web/corruption/projects/aec-nm-phase3>



# IV

## PERCEPTIONS ON GENDER AND CORRUPTION



## 1. Perceptions on Corruption

Almost all (97.5%) of the 122 respondents from the general public and all 50 respondents from the private sector consider that corruption is a serious problem in the country. In both groups, more than half of the respondents who answered the questionnaires (56.6% of the respondents from the general public and 52.1% of the respondents from the private sector) believe that corruption is present in the private and public sectors.

The respondents from the general public expressed a different opinion concerning the extent to which corruption is recognized in the country. Out of the 122 respondents from the general public, about a third believes that corruption is recognized among employees, communities and organizations that have a mission to protect and promote women's rights. The percentage of those who believe that there is no recognition among employees and communities is approximately the same.

Out of the 122 respondents from the general public and 50 respondents employed in the private sector, more than a third answered that corruption implies misuse of office and public authority. About a third of the respondents from the general public, i.e. a quarter of the respondents employed in the private sector, believe that corruption is a crime; however, the number of respondents who believe that corruption has different forms is small (18% of the respondents from the general public and 6% of the respondents employed in the private sector). In contrast, almost 60% of the respondents from the general public and 64% of the respondents employed in the private sector believe that corruption has all of the three abovementioned characteristics.

Commercial bribery and kickbacks are the most common form of corruption that occurs or can occur in the public and private sectors, as responded by almost 74% out of the 122 respondents from the general public and 86% out of the 50 respondents employed in the private sector. Trading in influence is the second most prevalent form of corruption (for 70.5% of the respondents from the general public and for 82% of the respondents employed in the private sector). For 75% of the respondents from the general public and for 76% of the respondents employed in the private sector, favouritism, nepotism and clientelism are the third most common form of corruption.

However, although there is public recognition of corruption and some of the respondents have faced it personally or through an acquaintance, the responses show that the percentage of people who have personally reported corruption is small. Thus, out of the 122 respondents from the general public, only 1.6% have personally filed a report, whereas 4.1% stated that they had an acquaintance who had reported corruption to their current/former employer; 3.3% have personally reported, while 2.5% stated that they had an acquaintance who had reported

corruption in the private sector; and 4.1% have personally reported, whereas 3.3% stated that they had an acquaintance who had reported corruption in the public sector. More than half of the 122 respondents from the general public (59%) have never reported corruption, and 50% of them do not know anyone who has.

The interviewees expressed perceptions that corruption is equally present in the public and in the private sector. However, one of the assumptions is that corruption may be more present in the public sector because it has more competences, whereas in the private sector it is more present in companies that have public authorisations. Corruption is more easily recognized in the sphere of labour relations, while in other spheres it is more difficult to recognize it and legal knowledge is often needed to help citizens understand that it is corruption. For some forms of corruption, such as sexual extortion, the interviewees felt that it was not recognized at all.

## 2. Perceptions on Gender Dimensions of Corruption

Most of the respondents from the general public and from among employees in the private sector consider that women and men are equally susceptible to corruption (76.8% out of the 122 respondents from the general public and 66% out of the 50 respondents employed in the private sector). A quarter (21.3%) of the 122 respondents from the general public and a third (32%) of the 50 respondents employed in the private sector believe that men are more corrupt than women.

Most of the interviewees had perceptions that men and women are equally corrupt, with women being involved more at lower levels of corruption because “all marginalized groups... are forced to get things done through corrupt actions because they have a smaller network of contacts”<sup>131</sup>. In the private sector, women usually hold lower subordinate positions, and most of the time, the final decision on dealing with corruption is made by men who hold managerial positions, although there are more and more women who are managers, especially in financial institutions. The interviewees believed that where women hold managerial positions and make the final decisions, there is less corruption.

<sup>131</sup> Extract from one of the interviews conducted for the needs of the analysis.

### 3. Perceptions on Corruption in the Public and Private Sector

42% of the 122 respondents from the general public and 46% of the 50 respondents employed in the private sector believe that corruption is present only in the public sector.

Only 8% of the 50 respondents employed in the private sector stated that they had received a report, concern or complaint about corruption in their company, 52% had not, and the rest responded that they were not aware of such a thing. Among those who received a report, the report had been false and malicious, and in one case, the company had been given information that in order to get the job, a payment in cash had to be made to a third party.

A small number (6%) of the 50 respondents employed in the private sector stated that companies had gender-disaggregated data on the receipt of corruption reports, 44% stated that such records were not kept, and half of the respondents responded that they had no information.



Most of the 122 respondents (91%) from the general public and all the respondents from the private sector believe that corruption is likely to occur in the public procurement and concession procedures. 66.4% of the 122 respondents from the general public and 60% of the 50 respondents employed in the private sector believe that corruption is likely to occur in the public and private sectors for the exploitation of mineral raw materials. 60.7% of the 122 respondents from the general public and 64% of the 50 respondents employed in the private sector believe that corruption is likely to occur in the process of land acquisition.

Many of the respondents who answered the questionnaires (80.3% of the 122 respondents from the general public and 74% of the 50 respondents employed in the private sector) believe that corruption is likely to occur in the public health sector, and a third (30.3%) of the respondents from the general public and a quarter (24.5%) of the respondents from the private sector consider that corruption is likely to occur in the private healthcare.

## 4. Facing Corruption

More than a third of the 122 respondents from the general public have experienced corruption with their current or former employer, either personally (11.5%) or they know someone who has experienced corruption with an employer (21.3%).

More than half of the 122 respondents from the general public have experienced corruption in a certain sector, either personally in the private (9%) and in the public sector (28.7%) or they know someone who has experienced corruption in the private (13.1%) or in the public sector (32%).

To the question about the context and form in which the respondents or their acquaintances or people close to them have experienced corruption, the answers are as follows:

### IN PUBLIC PROCUREMENT:

- corruption to win a contract in the public sector
- bid rigging and payment of lobbying
- blackmail when awarding a contract
- modification of concession requirements
- remuneration in exchange for winning contracts/projects

### IN THE PUBLIC HEALTHCARE:

- insured persons were asked for additional money for surgery
- asking for a bribe to get an appointment for an operation in a short period of time
- asking for a bribe to obtain the allowance for care and nursing of a sick person, which the person is entitled to according to the law
- asking for a bribe for a standard examination
- asking for money (goods, artworks) in exchange of a health service in the public sector

### IN THE JUDICIARY:

- deliberately prolonging (judicial) processes and asking for a favour from a judge
- in case of absence of criminal responsibility, money is extorted from the person from the position of power so as to prevent threats or frame-up

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#### GIFTS AND HOSPITALITY:

- the party is giving expensive gifts and providing expensive visits to restaurants to a colleague in order for their loan to be approved
- expensive gifts are given under the pretext of gratitude for the work done which falls within the job description for which the employee receives a salary
- gifts are given in the private sector for information about a competitor
- employees in the municipality ask a client to pay them a lunch in a restaurant in order for them to issue him a permit for construction of a house that he has been waiting for a whole year, whereby he has submitted complete documentation (the bill in the restaurant amounted to 12,000 denar)
- gifts are promised in exchange for grades or enrolment in university
- giving coffee and candies to counter workers.

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#### BRIBE IS ASKED:

- at the real estate cadastre office
- to obtain documents
- in the police
- in the education sector (to pass an exam, to get a grade)
- in the municipality
- bribing of an inspector
- to obtain disability pension (an acquaintance had to pay bribe to get a disability pension despite having a 90% disability)

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#### ASKING FOR MONEY OR SERVICES:

- in exchange of a service
- for a permit for extension of a building
- for a service that you are entitled to by law
- in the context of asking for a sexual service

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Corruption through an intermediary to obtain a service that the corrupt official is regularly delivering during their working hours.

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Corruption in the process of recruitment and promotion in the public and private sector.

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Due to pressure of losing the job, the person is forced to put a stamp and signature on lab results from systematic medical examination of employees that have been falsified.

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A small portion (14%) of the 122 respondents from the general public do not know if their acquaintances have experienced corruption, while only 25.8% of the respondents from the general public have never personally experienced corruption.

## 5. Perceptions on Gender-Sensitive Corruption Reporting Mechanisms

Slightly less than half (46.7%) of the 122 respondents from the general public recognize that a gender-sensitive corruption reporting mechanism implies:

- gender mainstreaming in the design, implementation, monitoring and evaluation of the mechanism to achieve the ultimate goal of providing men and women an equal opportunity to report;
- identifying the differences among women and developing a strategy so that they can report corruption;
- attention to confidentiality;
- providing equal opportunity to women and men to participate in the mechanism design processes.

A small number (around 16%) of the 122 respondents from the general public do not know what a gender-sensitive approach is, whereas the rest consider that it is enough to have at least one of the abovementioned descriptions.

For slightly more than half (56.6%) of the 122 respondents from the general public, the existence of a gender-sensitive corruption reporting mechanism has no impact on their choice whether to report corruption. For about a third of the respondents from the general public, the existence of a gender-sensitive mechanism would have an impact on their decision.

For about two-thirds (78%) of the 122 respondents from the general public, there is no difference whether the person to whom the report is filed is a man or a woman. About 10% of the female respondents from the general public, who answered the questionnaire, prefer that the person to whom the report is filed is also a woman.



## 6. Perceptions on Access to State-Established Mechanisms for Justice

Most (32.8%) of the 122 respondents from the general public responded that if they made a decision to report corruption, they would report it to the Ministry of Internal Affairs, around 17% would report it to the employer, provided that the corruption took place at the workplace, around 14% would report it to the Public Prosecutor's Office, around 11% would report it to the non-governmental organizations, and the smallest portion (6.6%) would report it to the Ombudsman.

Around 8% (122) of the respondents from the general public would not report corruption in any case despite the existence of safeguards for reporting. Several reasons for not reporting corruption are given, such as:

- fear of being fired and facing unwanted consequences, such as not receiving a promotion at the workplace;
- not expecting to see a result or to see somebody held accountable;
- it is difficult to prove corruption;
- feeling lack of protection and retaliation;
- mistrust in the judiciary and in the legal system in general;
- the person has not faced corruption personally.

These perceptions of the respondents from the general public are also confirmed by the perceptions expressed by the interviewees, where fear, mistrust and non-functioning of state institutions, dependence on the institution where the corrupt action takes place and retaliation were highlighted as the main reasons for not reporting corruption.

The respondents from the general public who answered the questionnaire would be encouraged to report corruption if the following pre-conditions were met:

- anonymity and discretion and protection of whistleblowers and their data;
- trust in the systematic functioning of the state system, fair trial and sanctioning of the perpetrators of corruption;
- existence of a uncorrupted judiciary and police;
- guaranteed protection of job position and income;
- existence of appropriate reporting mechanisms;
- sanctioning of persons who will fail to act upon a report on corruption;



- informing about the report on social networks and independent media;
- if the report on corruption has a legal resolution with a decision without any pressure that will affect the system;
- if more people report;
- number of cases of corruption that have had a trial outcome.

Around two-thirds (68%) of the 122 respondents from the general public have never heard of the protected reporting system, in comparison with 32% of them who have heard of it, while the interviewees expressed an opinion that the internal protected reporting system is not sufficiently known to the public and that there is a lack of activities among state institutions to promote the system and to point out to the elements of the protected reporting system.

When the respondents from the general public were asked whether they would report corruption if it occurred in the public or private sector in which there is a reporting system in place, including in accordance with the Law on Protection of Whistleblowers, slightly more than half (50.8%) of the 122 respondents said that they would report corruption in the public sector, whereas 35% would report corruption in the private sector.

## 7. Perceptions on Access to Operational Complaints Mechanisms in the Private Sector

A large portion (74%) of the 50 respondents employed in the private sector are not familiarized with the *Guiding Principles on Business and Human Rights*, the *UN Global Compact* or other standards that establish obligations for the private sector to have operational complaints mechanisms that include a gender perspective. Only 14% of the respondents employed in the private sector are familiar with this soft right.

Less than half (42.5%) of the 122 respondents from the general public would report corruption to a current/former employer who has an operational complaints mechanism in place for filing reports on corruption.

38% of the 50 respondents employed in the private sector answered that their company had a trust-based procedure for receiving, processing and deciding on internal and external reports on corruption, while 30% stated that there was no such thing. The percentage of employees in the private sector who do not know whether such a procedure exists is also high (32%).

At the same time, 42% of the 50 respondents employed in the private sector stated that they had a written procedure for receiving, processing and deciding on complaints and reports on corruption, 38% said that they did not have such a thing, and the rest of them did not know if such a procedure existed. In 26.5% of the companies, the corruption reporting mechanism can be accessed in at least two ways (for example, online and by submitting reports to the responsible person) and it is made in a way that all employees and persons contracted to provide services, including young male/female workers and women, have efficient access to the system. According to 34.7% of the 50 respondents employed in the private sector, the system does not meet the abovementioned characteristics, while the rest of them responded that they had no knowledge of this.

Based on the responses from the employees in the private sector, it can be concluded that there is a large percentage of companies that fail to provide information in a clear and easily accessible language to their employees about what corruption is, how to report it and how the company handles the reports. This can be deduced from the responses of more than a third (26%) of the total of 50 company employees interviewed, in comparison with 48% of them who said that the company they work for had such an approach. The others responded that they did not know.

There is also a large number of employees in the private sector (67.4% of the 50 respondents employed in the private sector) who do not know whether there is a corruption reporting mechanism in their company or whether women, women's rights advocates or NGOs with a mandate to protect women's rights were efficiently involved in the design thereof.

When asked whether employees and persons with temporary working arrangement (service contract) can file a report on corruption without fear of reprisal from the management or other employees, as many as 46% of the 50 respondents employed in the private sector responded that they did not know, 22% believe that they cannot, and 32% responded affirmatively.

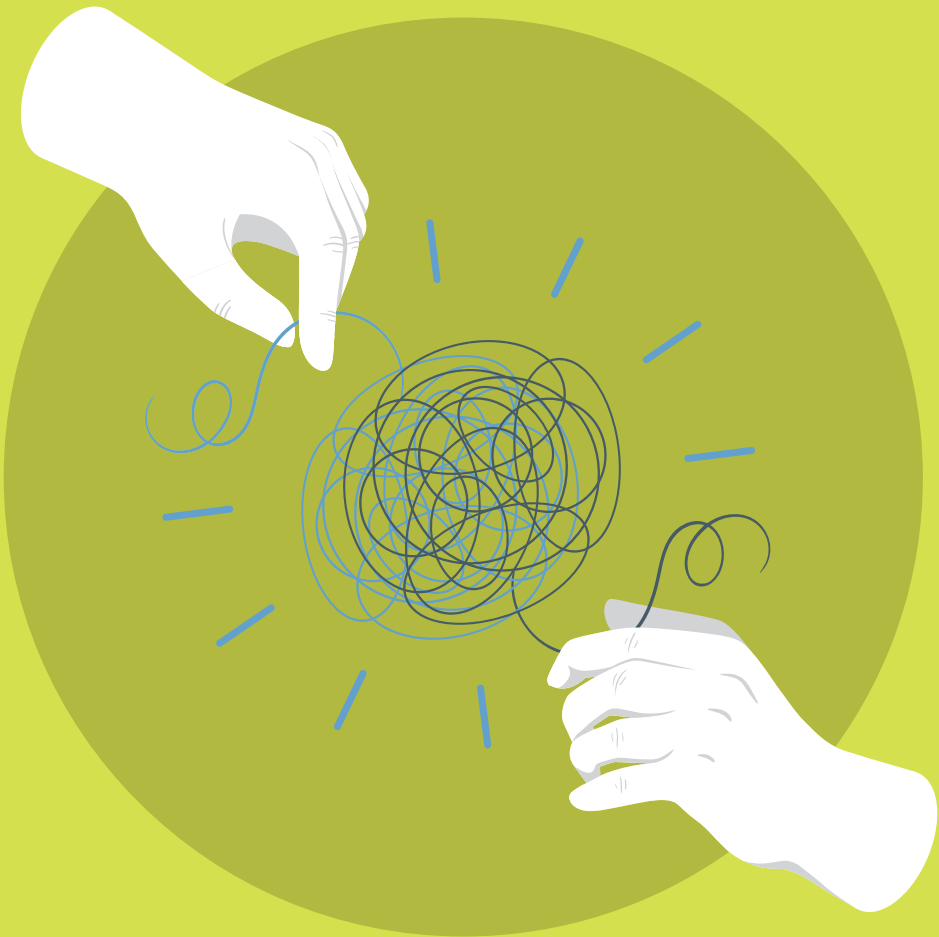
Large percentage (72%) of the 50 respondents employed in the private sector believe that the composition of the bodies that process corruption reports should be gender-balanced, while 12% believe that they should not have this characteristic, and 16% have no opinion on the composition of the bodies.

From the answers of the employees in the private sector, it can be concluded that there is a small percentage of companies that allow the person who files a report on corruption in the company to have the opportunity to participate in the procedure and to be informed about the outcome of it. This is the case with 26% of the companies, while 16% of them do not have such an approach, and the rest of the respondents answered that they did not know.

V

# CONCLUSIONS

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## General conclusions on corruption and perceptions of corruption

- The respondents almost unanimously agree that corruption is a serious problem in the Republic of North Macedonia and that it is present in both the private and public sectors. Corruption is likely to occur in the process of awarding public procurement and concessions, in the exploitation of mineral resources and in land acquisition processes.
- Perceptions of corruption in the health sector show that it is more present in the public health sector and less in the private, although about a third of respondents from both groups believe that it is also present in the private health sector.
- Most of the respondents from the general public and employees in the private sector believe that men and women are equally susceptible to corruption, and about a quarter of the respondents from the general public and almost a third of the respondents from the private sector believe that men are more corrupt than women.
- Only about a quarter (31 out of 122) of the general public who answered the questionnaire had never personally experienced corruption.
- The analysis shows that corruption is much underreported even though it is widespread. Only 2 out of 122 respondents from the general public who responded to the questionnaire answered that they had personally reported corruption to a current/former employer, while 72 (59 %) had never reported corruption and half did not know anyone who had reported corruption.
- Corruption is not reported due to fear of dismissal and facing unwanted consequences, because no result is expected from reporting or establishing anyone's responsibility, because corruption is difficult to prove, as well as because of lack of trust in the judiciary and the legal system and feeling of vulnerability and susceptibility to retaliation.
- In companies, there is a significant lack of gender-disaggregated data on corruption reports received, which affects the monitoring of the situation and the provision of appropriate gender-sensitive mechanisms.
- The application of gender-sensitive reporting mechanism is one of the factors that would contribute to the increased reporting of corruption, along with other factors, such as guarantee of anonymity and discretion, trust in the state system and faith in a fair trial, protection offered at the workplace and in relation to income, etc.
- Most often final decisions, including those referring to corruption, are made by men in senior positions in a much larger number than women, which results in the need to raise awareness of men about the gender dimensions of corruption and gender-sensitive measures for combating corruption.

## Access to justice

- The analysis showed that public knowledge and awareness about what constitutes a gender-sensitive corruption reporting mechanism are limited, and less than half of the respondents think that more criteria should be met.
- In the Republic of North Macedonia, there is a very limited number of completed court cases for criminal offences related to corruption in which the convicted persons are legal entities. In the period from 01.01.2013 until 20.06.2023 there were only twelve convicted legal entities (by the Basic Criminal Court Skopje). A total of 1,617 natural persons were convicted by three criminal courts (Basic Criminal Court Skopje, Basic Court Bitola and Basic Court Shtip), while the AKMIS system does not offer a possibility to determine the sex of convicted natural persons, and to generate data on whether corruption took place in public or private sector.<sup>132</sup> On the other hand, in the same period, there were 1,810 persons registered as perpetrators of criminal offences in the Ministry of Internal Affairs, which is 181 more perpetrators than those convicted by the three criminal courts. This difference can be interpreted in two ways: either this number refers partially or completely to perpetrators convicted by other minor criminal courts in the country, which is less likely; or the criminal charges of these perpetrators were completely or partially dismissed or the procedures were stopped. The data from the Ministry of the Internal Affairs also do not offer a possibility to determine the gender of the perpetrators in case of natural persons, or to see if corruption took place in the public or private sector.
- There are no applications filed to the Constitutional Court of the Republic of North Macedonia for violation of human rights related to corruption, which may result from lack of awareness of the public that they may file an application to this Court, or the citizens may consider that the Constitutional Court is not an appropriate forum for judicial protection.
- The courts and prosecutor's offices do not have any decision-making protocol which integrates a gender perspective.
- The private sector employees and the general public appear to have little awareness of whether there are operational complaints mechanisms for reporting human rights violations in the context of corruption, their form, whether they integrate a gender perspective, whether they are available to all employers and communities, whether organizations for the protection of women's rights participated in their design, etc.
- The majority of respondents from the public believe that the composition of the bodies that process corruption reports should be gender-balanced.

<sup>132</sup> Basic Court Shtip and Basic Court Bitola provided data by sex, not based on the AKMIS system, but based on examination of cases (total of 5 cases).

## Legislative and institutional framework

- No law, strategy or other official document in the Republic of North Macedonia in the field of combating and preventing corruption has integrated gender perspective, to recognize the different needs, roles and responsibilities of women and men.
- The annual reports on undertaken activities and achieved results of the ministries do not contain information on how gender components are integrated in areas with a high risk of corruption, such as public procurement procedures, in which all state institutions are involved.
- The Rulebook on protected internal disclosure for public sector institutions and the Rulebook on protected external disclosure do not establish an obligation for the designated person for protected disclosure to submit gender-disaggregated data to the SCPC when preparing and submitting semi-annual reports.
- The National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025 and its Action Plan do not include a gender perspective.
- The stakeholders in relation to the prevention and combating of corruption are numerous and work, at least, on one of the following areas: drafting and implementation of a legislative framework on gender and corruption; developing mechanisms for receiving corruption reports; mechanisms for access to justice and prosecution of perpetrators of crimes related to corruption; strengthening the capacities of state authorities through advocacy and building partnerships; raising awareness of the gender aspects of corruption.
- The non-governmental sector is a key actor in the prevention and combating of corruption. There is a large number of NGOs in the country that are involved in the implementation of anti-corruption policies by raising awareness of corruption, advocacy and strengthening the capacities of representatives of the private and public sector. Gender mainstreaming in their anti-corruption work is in its initial stage, and they are open and willing to further develop this topic.

# VI

## RECOMMENDATIONS



**To raise awareness on the gender dimensions of corruption and build capacities in the public and private sectors, the following is recommended:**

- Develop a framework for monitoring and evaluation of the application of *the Law on Prevention of Corruption and Conflict of Interest* applying gender analysis. The analysis may include gender indicators, such as: number of men and women who reported corruption; existence and impact of awareness raising programmes for gender aspects of corruption; allocation of the SCPC's budget for gender mainstreaming in the prevention and combating of corruption.
- Develop a Guide for conducting a gender analysis and measuring the effectiveness of the fight against corruption and the risks of corruption from a gender perspective; and a Guide for cooperation with the non-governmental sector, which will introduce a gender perspective into its activities.
- Develop new or improve existing programmes for capacity building and raising awareness on the gender dimensions of corruption for persons who receive reports of corruption to:
  - recognize the connection between gender and corruption;
  - identify the barriers faced by people who want to report corruption, especially legal, language and financial barriers;
  - develop soft skills, for example, expressing empathy when working with victims of corruption and building skills for treatment of victims depending on their specific situation, their identity and needs.
- Appoint a responsible person/coordinator for equal opportunities or a person in charge of gender issues in the SCPC, and adequately staff the Analytical Centre<sup>133</sup> to ensure collection of gender-disaggregated statistics.
- The Resource Centre for gender-responsive policymaking and budgeting established by MLSP should develop training courses for initial and continuous training, on the topic of gender and corruption for representatives from the public, private and non-governmental sectors.
- Ensure support for initiatives such as the regional Forum of Women Leaders established and led by the Deputy Prime Minister of the Government of Republic of North Macedonia in charge of good governance policies.
- Build capacities of the business community for soft law developed by the UN and EU directives related to the implementation of due diligence on human rights and corruption, through training, manuals and exchange of experience.

<sup>133</sup> UN OHCHR. 2017. General comment No. 24 (2017) on State obligations in the context of business activities, 23 June 2017.



- The private sector, in partnership with relevant parties, should provide comprehensible education for employees, persons on service contracts, and the communities, on corruption, different forms of corruption and the different impact and consequences of corruption on women and men.
- Establish cooperation with NGOs in the country that are involved in the protection of women's rights or anti-corruption programs to build awareness of corruption and its gender dimensions. The target group would be all citizens, with particular emphasis on the more vulnerable groups of women such as those from rural areas, women with disabilities, single mothers, etc. Information on the gender aspects of corruption can also be shared through campaigns for the general public.

**To mainstream gender in the legislative framework, by-laws, strategies and programmes, the following is recommended:**

- Recognize the different needs, roles and responsibilities of women and men in all relevant laws, strategies and programmes for prevention and combating of corruption.
- Propose amendments to the Criminal Code to introduce extortion of sexual services as a separate criminal offence.
- A more detailed definition of the criteria for awarding a public procurement contract is required to be included in the programmes, annual plans, procedures and risk assessments, which refer to public procurement and granting concessions. Among other things, it is recommended to set a criterion that will allow to consider how the operator deals with corruption, for example, by providing information on the systems and policies it has in place, if any, for detecting and reporting corruption.<sup>134</sup>
- Amend the Registers of corruption risks kept by state institutions so that gender issues will be taken into account in the implementation of control mechanisms.
- Amend the Integrity and Corruption Sectoral Risk Assessment (Methodology),<sup>135</sup> Risk Assessment Guidelines,<sup>136</sup> Corruption Risk Register<sup>137</sup> in a way that will allow entering data broken down by sex, age, ethnicity, disability and geographic location (urban/ rural). This will allow the SCPC to conduct intersectoral analyses including a gender perspective.
- In their annual reports on activities undertaken and results achieved, the ministries and other competent institutions should provide information

<sup>134</sup> Ministry of Economy, Guidelines for implementation of public procurement procedures in the Ministry of Economy, No. 28-540/11 of 28.01.2021.

<sup>135</sup> DCPC. 2021. Integrity and corruption sectoral risk assessment.

<sup>136</sup> DCPC. 2020. Guidelines for institutional corruption risk assessment in the Republic of North Macedonia.

<sup>137</sup> DCPC. 2022. Corruption Risk Assessment Report.

how gender components are integrated in areas exposed to a high corruption risk.

- The competent authorities should submit gender-disaggregated examples and statistics to GRECO in the next round of evaluation.
- Amend the *National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025* and its *Action Plan* to include a gender perspective.
- Include goals, expected results and indicators in relation to combating corruption, or gender-based forms of corruption, in the *Strategy for Gender Equality 2022-2027* and the *National Action Plan for Gender Equality 2002-2024*.
- Foster cooperation between the Department for Development and Competitiveness of Small and Medium-sized Enterprises, which also covers women's entrepreneurship, in the Ministry of Economy, and the Department responsible for public procurement and concessions. Research shows that a gender-smart public procurement system helps reduce corruption because it makes the process more accountable, transparent and ensures equal participation of men and women.<sup>138</sup>
- Adopt a National Action Plan for Business and Human Rights, including anti-corruption measures with a gender perspective, taking into account the *Guiding Principles on Business and Human Rights* and the analyses of the Working Group on Business and Human Rights on gender and corruption.
- Amend the *Rulebook on protected internal reporting for public sector institutions* and the *Rulebook on protected external reporting* to establish an obligation for the responsible persons for protected reporting to submit gender-disaggregated statistical data to the SCPC, specifically, data disaggregated by sex, age, ethnicity, and geographic location (urban/rural), when preparing and submitting their semi-annual reports.
- Integrate a gender perspective in the public procurement system, among other things, by adopting a new rulebook or amending existing by-laws. The rulebook/amendments should focus on:<sup>139</sup>
  - terminology: it should be clear from the public call that the situation of both women and men should be taken into account in the implementation of the public procurement contract;
  - setting contract objectives: examine whether the contract refers to an area/s characterized by differences between women and men;
  - criteria: gender perspective is included as one of the elements of "quality" or "expertise";
  - statistics: the statistics collected within the public procurement system should be gender-disaggregated.

<sup>138</sup> OSCE. 2021 Gender and Corruption. What do we know? A Discussion paper. Vienna.

<sup>139</sup> Institute for the Equality of Women and Men. 2018. *Checklist for the integration of the gender perspective and consideration of the equality of women and men in the framework of public procurement*.

## To develop and integrate gender-sensitive structures for reporting and dealing with corruption, the following is recommended:

- Adopt a protocol in courts and public prosecutor's offices for decision-making and prosecution that will integrate gender perspectives to address arguments based on gender stereotypes and avoid attempts to disregard the right to equality.
- Amend *the Programme and Action Plan for Prevention and Monitoring of Corruption in the Judiciary 2022-2025*<sup>140</sup> so that a gender dimension will be integrated in the goals and indicators, and the data collected will be disaggregated by sex, age, disability, ethnicity and geographic location.
- Upgrade the AKMIS system used in the judiciary to allow data to be aggregated by sex, ethnicity, geographic area, disability, area (e.g., corruption or nullity of contracts due to corruption), as well as collect data on whether the corruption case is related to the public or the private sector.
- Adopt protocols for gender-sensitive receipt and handling of reports from whistleblowers, which will elaborate issues related to gender stereotypes, creating safe and confidential environment for filing reports, recognition of barriers faced by certain groups when reporting corruption etc.
- Translate and adapt to the national context the HELP course of the Council of Europe for prevention of corruption integrating a gender perspective.
- Private sector companies should develop operational complaints mechanisms for receiving corruption reports and accordingly inform the employees and the community of their availability and explain how the company handles reports. Thus, it is necessary for the operational complaints mechanism to:
  - allow employees and persons on service contracts to file corruption reports without fear of reprisal from management or other employees;
  - ensure protection and confidentiality of the person reporting corruption and provide guidance for using the system for receiving corruption reports that will clearly indicate that the company has zero tolerance for intimidation and retaliation against whistleblowers;
  - be accessible in at least two ways (for example, online, and by submitting reports to the responsible person) and allow access for all employees, including young persons and women, women with disabilities, women from rural areas, etc.;
  - allow clients and external stakeholders to report corruption to the company without threats of intimidation and retaliation;

<sup>140</sup> Judicial Council of the Republic of North Macedonia, Programme and Action Plan for Prevention and Monitoring of Corruption in the Judiciary 2022-2025.

- ensure gender balance in the composition of the bodies that will process corruption reports;
  - allow persons reporting corruption to participate in the procedure and accordingly notify them of the outcome of the procedure;
  - keep records of corruption reports including gender-disaggregated data;
  - women, women advocates for women's rights and non-governmental organizations involved in protection of women's rights should effectively participate in its design.
- It is recommended to develop a software application, which could be accessed by all relevant institutions involved in combating corruption, such as the judicial authorities, the Ministry of Internal Affairs, the SCPC, the Ombudsman, the responsible persons for the receipt of corruption reports, etc., and which will enable quick registration, classification and processing of corruption cases and generating gender-disaggregated data. It is also recommended to draft an Action Protocol for competent authorities, including principles of action such as urgency, confidentiality and victim protection, and insisting that compensation for damage suffered due to corruption is awarded based on a court decision in a criminal procedure, instead of referring the victim to a civil procedure.

# ANNEXES

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## Annex 1

### Questions submitted to relevant state authorities in accordance with the Law on Free Access to Public Information

#### I. Constitutional Court of the Republic of North Macedonia, with a request dated 19.06.2023.

1. Number of submitted requests for protection of legality in accordance with Article 51 of the Rules of Procedure of the Constitutional Court and in connection with rights protected in accordance with Article 110 paragraph 3 of the Constitution in the period from 2003 until 2023 disaggregated by sex.
2. Were some of the applications for protection of legality submitted due to human rights violations related to corrupt conduct of a natural person or a legal entity?
3. Does the Constitutional Court of the Republic of North Macedonia have a protocol for judicial decision-making that integrates gender perspectives (to address arguments based on gender stereotypes and avoid attempts to disregard the right to equality)?
4. Does the Constitutional Court of the Republic of North Macedonia apply a gender-sensitive approach in reporting, conducting procedures and passing judgments on corruption-related criminal offences, and if yes, how?

#### II. Criminal courts (Basic Criminal Court Skopje, Basic Court Bitola, Basic Court Shtip and Basic Court Gostivar), with requests dated 16.06.2022.

1. Number of women and men convicted of corruption-related criminal offences in the public sector in the period from 2013 until 2023.
2. Number of women and men convicted of corruption-related criminal offences in the private sector in the period from 2013 until 2023.
3. Number of legal entities convicted of corruption-related criminal offences in the period from 2013 until 2023.
4. Does the Court have a judicial decision-making protocol that integrates gender perspectives (to address arguments based on gender stereotypes and avoid attempts to disregard the right to equality)?
5. Does the Court apply a gender-sensitive approach in reporting, conducting procedures and passing judgments for corruption-related criminal offences, and if yes, how?

### **III. Civil courts (Basic Civil Court Skopje, Basic Court Bitola, Basic Court Shtip and Basic Court Gostivar) with requests dated 19.06.2022.**

1. Number of completed civil procedures, preferably disaggregated by sex, for compensation for damages due to nullity of contracts and other legal acts that are the result of corruption in accordance with the Law on Prevention of Corruption and Conflict of Interest in the period from 2019 to date.
2. Does the Court have a judicial decision-making protocol that integrates gender perspectives (to address arguments based on gender stereotypes and avoid attempts to disregard the right to equality)?
3. Does the Court apply a gender-sensitive approach in reporting, conducting procedures and passing judgments on corruption-related criminal offences, and if yes, how?

### **IV. Public Prosecutor's Office for Organized Crime and Corruption, with a request dated 19.06.2023, resent on 23.06.2023.**

1. Number of criminal charges filed against public sector employees in the period from 2013 to 2023 for corruption-related crimes broken down by sex and type of criminal offence for which the criminal charges were filed.
2. Number of criminal charges filed against legal entities and number of criminal charges filed against managers in legal entities in the period from 2013 until 2023 for corruption-related criminal offences broken down by sex and type of criminal offence for which the criminal charges were filed.
3. Were there any criminal charges filed in the period from 2013 until 2023 against individuals or legal entities due to criminal offences committed by taking actions of intimidation, threats, attacks on life or body or property of persons who reported corruption-related criminal offences? If yes, how many, broken down by sex?
4. Does the Public Prosecutor's Office apply a gender-sensitive approach in the investigation and prosecution of corruption-related criminal offences, and if yes, how?

### **V. Ministry of Internal Affairs, with a request dated 22.06.2023.**

1. Number of criminal charges filed to competent public prosecutor's offices against public sector employees in the period from 2013 until 2023 for corruption-related criminal offences broken down by sex and type of criminal offence for which the criminal charges were filed.
2. Number of criminal charges filed to competent public prosecutor's offices against legal entities and number of criminal charges filed against managers in legal entities in the period from 2013 until 2023 for corruption-related

criminal offences broken down by sex and type of criminal offence for which the criminal charges were filed.

3. In the period from 2013 until 2023, were there any criminal charges filed to the competent public prosecutor's office against individuals or legal entities for criminal offences committed by taking actions of intimidation, threats, attacks on life or body or property of persons who reported corruption-related criminal offences? If yes, how many, broken down by sex?
4. Does the Ministry of Internal Affairs apply a gender-sensitive approach in the investigation and prosecution of corruption-related criminal offences, and if yes, how?



## Annex 2

### Questionnaire for the General Public

#### 1. Sex

- Female
- Male
- Other

#### 2. Nationality

- Macedonian
- Albanian
- Serbian
- Turkish
- Vlach
- Bosniak
- Other

#### 3. Education

- Primary
- Secondary
- Tertiary

#### 4. Employment status

- Employed in the public sector
- Employed in the private sector
- Unemployed
- Housewife
- Student
- Business owner
- Farmer
- Freelancer
- Retired
- Other

#### 5. Age

- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- Over 64

**6. Place of residence**

- Urban
- Rural

**7. In your opinion, corruption (multiple options are possible):**

- is a crime
- has different forms
- implies the abuse of office, public authority, official duty or position to obtain benefit, directly or through an intermediary, for oneself or for another
- all of the above
- I don't know
- other:

**8. In your opinion, in North Macedonia, corruption is:**

- a serious problem
- a small problem
- not a problem

**9. In your opinion, who is more susceptible to corruption?**

- Men
- Women
- Men and women alike
- I don't know

**10. In your opinion, corruption occurs or is more likely to occur in:**

- the public sector
- the private sector
- in the public and private sectors
- I don't know

**11. In your opinion, in which context is corruption more likely to occur, the public sector or the private sector, or both? Please mark all the options that reflect your opinion (multiple answers are possible)**

- In public procurement and granting concessions
- In acquisition of ownership
- In public health care
- In private health care
- In the exploitation of natural resources
- I don't know
- Other:

**12. In your opinion, in what forms does corruption occur or is it more likely to occur in the private or public sector, or both? Please tick all the options that reflect your opinion.**

- o Commercial bribery and kickbacks: This occurs when payments, undue advantage or expensive gifts are offered to employees of another company/body to secure an advantage. Examples include paying procurement staff to sway their decision in favour of the paying company; or giving an expensive gift to a bank manager to secure a loan, and various forms of kickbacks.
- o Trading in influence: This occurs when a private sector employee gives payments, undue advantage or expensive gifts to a public official, expecting to receive an undue advantage from the public authority in return. An example is when private sector individuals make political donations with the intent of influencing political decisions, policies or laws.
- o Embezzlement: This occurs when employees misappropriate anything of value entrusted to them because of their position.
- o Favouritism, nepotism, clientelism: These forms of corruption occur when a person or group of persons is given unfair preferential treatment at the expense of others.
- o Extortion and solicitation: This occurs when an employee requests payment, undue advantage, expensive gifts or sexual favours in return for performing specific business-related tasks or making particular decisions.
- o Gifts and hospitality: Excessive gifts and hospitality given to employees to influence business decisions or tasks. This kind of gift might be travel, luxury items or tickets to sporting events.
- o Fees and commissions: Agents and intermediaries are paid fees and commissions beyond what is considered the industry standard for the purpose of altering business decisions or tasks. Characterizing the payment as a fee or commission might be a way of disguising the payment of a bribe.
- o Collusion: This occurs when, for example, a labour union employee and a member of the company's management team exchange favours that result in inaccurate representation of employees' interests.
- o Trading in information: This occurs when an employee offers or receives a bribe in exchange for confidential information, where the bribe can take a number of different forms. When confidential information is the basis for trading in a company's stock, bonds, or other securities, it is called "insider trading."
- o I don't know.

**13. Have you personally or your acquaintance/close person experienced any form of corruption with a current/former employer or in general, in the public or private sector? Please tick all the options that reflect your opinion.**

- Yes, I have personally experienced a form of corruption with a current/former employer.
- Yes, an acquaintance of mine, that is, a close person, has experienced a form of corruption with a current/former employer.
- Yes, I have personally experienced a form of corruption in the private sector.
- Yes, I have personally experienced a form of corruption in the public sector.
- Yes, an acquaintance of mine, that is, a close person, has experienced a form of corruption in the private sector.
- Yes, an acquaintance of mine, that is, a close person, has experienced a form of corruption in the public sector.
- No, I have never experienced corruption.
- I am not aware if anyone (acquaintance, close person) has experienced corruption.
- I don't know.

**14. If the answer to the previous question is "yes", please clarify in which context and in which form you or your acquaintance/close person have experienced corruption:**

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**15. Have you ever reported corruption, or do you know someone who has reported corruption, which occurred with a current/former employer, or in general, in the public or private sector? Please tick all the options that reflect your opinion.**

- Yes, I have reported corruption that I have experienced with a current/former employer.
- Yes, I have reported corruption that I have experienced in the private sector.
- Yes, I have reported corruption that I have experienced in the public sector.
- Yes, an acquaintance of mine, that is, a close person has reported corruption that he/she experienced with his/her current/former employer.
- Yes, an acquaintance of mine, that is, a close person, has reported corruption that he/she experienced in the private sector.
- Yes, an acquaintance of mine, that is, a close person, has reported corruption that he/she has experienced in the public sector.
- No, I have never reported corruption.
- I don't know anyone who has reported corruption.
- I don't know. Other:

**16. If you decide to report corruption, where would you report it first?**

- To the Ministry of Internal Affairs
- I will initiate a court procedure
- To the Public Prosecutor's Office
- To non-governmental organizations
- To the Ombudsman
- To the employer (if corruption occurred at the workplace)
- Other:

**17. If corruption occurred with your current/former employer, or in general, in the public or private sector, where there is a system for receiving reports (an operational complaints mechanism in the private sector), would you report it? Please tick all the options that reflect your opinion.**

- Yes, I would report corruption with a former/current employer if there is an operational complaints mechanism.
- Yes, I would report corruption in the public sector if there is a system for receiving reports, among other, pursuant to the Law on Protection of Whistleblowers.
- Yes, I would report corruption in the private sector if there is a system for receiving reports, among other, pursuant to the Law on Protection of Whistleblowers.
- I would not report corruption.
- I don't know.

**18. Depending on the answer to the previous question, why would you not report corruption with your current/former employer, or in general, in the private or public sector?**

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**19. What would encourage you to report corruption with your current/former employer, or in general, in the private or public sector?**

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**20. Have you heard of protected corruption reporting?**

- Yes
- No

**21. If you are a woman, do you prefer that the person receiving corruption reports is also a woman?**

- Yes
- No
- It makes no difference whether the person receiving corruption reports is a man or a woman.

**22. In your opinion, is corruption sufficiently recognized by:**

	Yes	No	I don't know
The employees			
The communities			
Organizations whose mission is to protect and promote women's rights			

**23. According to you, a gender-sensitive corruption reporting mechanism**

- integrates gender perspectives in the design, implementation, monitoring and evaluation of the mechanism to ensure that men and women have an equal opportunity to report corruption.
- considers confidentiality.
- identifies the differences among women and develops a strategy so that each one of them can report corruption.
- equal opportunity is given to men and women to participate in the process of designing the mechanism.
- All of the above.
- I don't know

**24. Would you be more encouraged to report corruption if your current/ former employer, or the public and private sector in general, had gender-sensitive mechanisms for reporting corruption in place?**

- Yes
- No
- The existence of gender-sensitive mechanisms for reporting corruption has no influence on my decision to report corruption.
- I don't know.

## Annex 3

### Questionnaire for the Private Sector

#### 1. Sex

- Female
- Male
- Other

#### 2. Nationality

- Macedonian
- Albanian
- Serbian
- Turkish
- Vlach
- Bosniak
- The rest

#### 3. Education

- Primary
- Secondary
- Tertiary

#### 4. What business function do you work in?

- Strategy
- Finance
- Sales and marketing
- Research and development
- Information technology
- Customer relations
- Human resources
- Design
- Other

**5. In which sector does the company you work for operate?**

- Mineral raw materials
- Construction
- Transport and storage
- Information and communications
- Mining
- Processing industry
- Supply of electricity, gas, steam and air conditioning
- Waste management
- Financial and insurance activities
- Professional, scientific and technical activities
- Education
- Health and social care activities
- Arts, entertainment and recreation
- Other service activities
- Other

**6. What is the number of employees in your company?**

- 1-10
- 11-20
- 21-50
- 51-100
- 101-500
- 501+

**7. What kind of company do you work for?**

- Domestic
- A subsidiary of a domestic company
- International
- Other

**8. In your opinion, corruption... (multiple options are possible):**

- is a crime
- has different forms
- implies the abuse of office, public authority, official duty or position to obtain benefit, directly or through an intermediary, for oneself or for another
- all of the above
- I don't know.

**9. In your opinion, in North Macedonia, corruption is:**

- a serious problem
- a small problem
- not a problem
- I don't know.



**10. In your opinion, who is more susceptible to corruption?**

- Men
- Women
- Men and women alike
- I don't know

**11. In your opinion, corruption occurs or is more likely to occur in:**

- the public sector
- the private sector
- in the public and private sectors
- I don't know

**12. In your opinion, in which context is corruption more likely to occur, the public sector or the private sector, or both? Please mark all the options that reflect your opinion (multiple answers are possible)**

- In public procurement and granting concessions
- In acquisition of ownership
- In public health care
- In private health care
- In the exploitation of natural resources
- I don't know
- Other:

**13. In your opinion, in what forms does corruption occur or is it more likely to occur in the private or public sector, or both? Please tick all the options that reflect your opinion.**

- Commercial bribery and kickbacks: This occurs when payments, undue advantage or expensive gifts are offered to employees of another company/body to secure an advantage. Examples include paying procurement staff to sway their decision in favour of the paying company; or giving an expensive gift to a bank manager to secure a loan, and various forms of kickbacks.
- Trading in influence: This occurs when a private sector employee gives payments, undue advantage or expensive gifts to a public official, expecting to receive an undue advantage from the public authority in return. An example is when private sector individuals make political donations with the intent of influencing political decisions, policies or laws.
- Embezzlement: This occurs when employees misappropriate anything of value entrusted to them because of their position.
- Favouritism, nepotism, clientelism: These forms of corruption occur when a person or group of persons is given unfair preferential treatment at the expense of others.

- o Extortion and solicitation: This occurs when an employee requests payment, undue advantage, expensive gifts or sexual favours in return for performing specific business-related tasks or making particular decisions.
- o Gifts and hospitality: Excessive gifts and hospitality given to employees to influence business decisions or tasks. This kind of gift might be travel, luxury items or tickets to sporting events.
- o Fees and commissions: Agents and intermediaries are paid fees and commissions beyond what is considered the industry standard for the purpose of altering business decisions or tasks. Characterizing the payment as a fee or commission might be a way of disguising the payment of a bribe.
- o Collusion: This occurs when, for example, a labour union employee and a member of the company's management team exchange favours that result in inaccurate representation of employees' interests.
- o Trading in information: This occurs when an employee offers or receives a bribe in exchange for confidential information, where the bribe can take a number of different forms. When confidential information is the basis for trading in a company's stock, bonds, or other securities, it is called "insider trading."
- o I don't know.

**14. Does your company have a trust-based procedure for receiving, processing and deciding on internal and external corruption reports?**

- o Yes
- o No
- o I don't know

**15. Does your company have a written procedure for receiving, processing and deciding on corruption-related complaints and reports?**

- o Yes
- o No
- o I don't know

**16. Does your company provide information to employees, in clear and easily understandable language, about what corruption is, how to report it and how the company handles reports?**

- o Yes
- o No
- o I don't know

**17. Can employees and persons on service contracts report corruption without fear of retaliation by management or other employees?**

- Yes
- No
- I don't know

**18. If there is a corruption reporting mechanism in your company, does it protect the confidentiality of the person reporting corruption, including women, and do the instructions for using the reporting system clearly indicate that intimidation or retaliation for filing reports is not tolerated?**

- Yes
- No
- I don't know

**19. In case there is a corruption reporting mechanism in your company, is it accessible in at least two ways (e.g. online and by filing reports to the responsible person) and designed in a way that all employees and persons on service contracts, including young workers and women, have effective access to the system?**

- Yes
- No
- I don't know

**20. Can customers and external stakeholders report corruption in the company without threats of intimidation and retaliation?**

- Yes
- No
- I don't know

**21. In your opinion, should the composition of the bodies that process corruption reports be gender-balanced?**

- Yes
- No
- I don't know

**22. If there is a corruption reporting mechanism in your company, does the person who files a report for corruption in the company have the opportunity to participate in the procedure and is he/she informed about its outcome?**

- Yes
- No
- I don't know

**23. Have you ever received a report, complaint or expression of concern about corruption in your company?**

- Yes
- No
- I don't know

**24. If the answer to the previous question is "yes", please explain the reasons why, in what context and by whom (note: information is not requested to identify the person, but to obtain information whether the person was employed or on service contract and his/her sex).**

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**25. Does the company keep records of corruption reports and, if "yes", are the data disaggregated by gender:**

- Yes, records are kept and data are gender disaggregated.
- Yes, records are kept and data are not gender disaggregated.
- No records are kept.
- I don't know.

**26. If there is a corruption reporting mechanism in your company, have women, women advocates of women's rights or non-governmental organizations with a mandate to protect women's rights effectively participated in its design?**

- Yes
- No
- I don't know

**27. Does your company take into account the various forms of discrimination, social and cultural barriers, including gender stereotypes, faced by women seeking effective legal remedies against corruption, and if yes, how?**

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**28. Are you familiar with the United Nations Guiding Principles on Business and Human Rights, the UN Global Compact, or other standards that establish obligations for the private sector to have operational complaints mechanisms that include a gender perspective?**

- Yes
- No
- I don't know

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