

Report

STRATEGIC CORRUPTION RISK ASSESSMENT IN GENERAL SECONDARY AND PRE-SCHOOL EDUCATION

EXECUTIVE SUMMARY

The report was commissioned by the Department for prevention and identification of corruption of the National Agency for Corruption Prevention

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Міністерство розвитку
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INTRODUCTION

General secondary and preschool education is one of the areas where citizens point to the widespread experience of corruption. At the same time, the experience in kindergarten and school forms value orientations of an individual. Corruption and related management practices and organisational culture in an educational institution create an unfavourable environment for the formation of a child's value orientations. That is why it is important to minimize corruption risks at these levels of education, and especially now, in the conditions of war for universal human values, such as freedom and dignity. Education is also a strategic priority in Ukraine's recovery process, recognized both by the state¹ and civil society².

This executive summary presents the main take-aways of the report “**Strategic corruption risk assessment in primary and secondary education**”. The original report identified **35 corruption risks in four main processes in the management of general secondary and preschool education**: financing, the appointment of heads of educational institutions, administration of educational institutions, and the educational process. Corruption risks in relevant legal acts were separately analysed.

Education management policy in Ukraine builds upon the guiding role of the national authorities with substantial autonomy at the local level. The Ministry of Education and Science of Ukraine (MoE) shapes the state policy in the field of general secondary and preschool education using policy tools, such as: educational subvention for the salaries of teaching staff, other targeted subventions, approval of standard curricula, standards of material and technical support of educational institutions. The key role in the implementation of state policy in the field of education and ensuring the quality of and access to education in the respective territories is played by local public authorities of the self-government bodies (LPAs) (Article 66 of the Law on Education). School principals, in turn, are responsible for human resources and infrastructure management at their schools as well as for educational attainment of the pupils. Finally, collegial decision-making by teachers on teaching programs and school strategy as well as by school-based parents' association is envisaged (Para. 2 Article 24 of the Law on Education).

Full-scale Russian invasion on 24 February 2022 significantly disrupted financial flows and operations of schools. Targeted subventions were cancelled, and the main educational subvention of teachers' salaries was cut by 10% creating deficits in some locations.³ School infrastructure was heavily damaged⁴, while many schools cannot afford to create bomb shelters pushing pupils out for another schoolyear online. These severe challenges also create space for corruption risks in the area of teacher salaries and construction.

The **consequences** of the corruption in education, if risks materialize, are the violation of the fundamental rights of the child, in particular: the best interests of the child, non-discrimination, and the right to development.⁵ Corruption negatively affects these fundamental rights affecting quality and affordability of education by setting unequal rules of access to educational services.

The analysis of the mechanisms of how corruption risks materialize, made it possible to generalize three **sources** that enable the corruption risks:

¹ Outcomes of the working group on education and science of the National Council for Recovery, which were presented at the conference on the reconstruction of Ukraine in Lugano (Switzerland) in July 2022. (<https://cutt.ly/AZO5y4n>).

² The Salzburg declaration by Ukrainian civil society calls for the development of education based on values and oriented towards the future (<https://cutt.ly/4ZO5pqb>).

³ CMU decree №401 of 01.04.2022 (<https://cutt.ly/8ZR2oT4>). In recalculation cutting is 17% by the end of the year.

⁴ Save schools: 1167 institutions are damaged, 221 – are destroyed (<https://saveschools.in.ua/>).

⁵ Convention on the rights of the children (<https://cutt.ly/AZPqHyn>).

- **Discretion:** the legitimate discretionary authority of the founder and heads of educational institutions is used for personal gain or discretionary authority is excessive;
- **Legal uncertainty:** Lack of clear procedures, standards, and rules in key processes, which gives room for manipulation;
- An **organizational culture** that promotes dishonesty: a hierarchical relationship between participants in the educational process in which the informal norm is submission to authority without critical feedback. It manifests itself both at the level of relations between the school administration and parents, and between the school administration and local government, among parents themselves, between pupils and teachers, and between teachers and school administration.

The corruption risks assessment was carried out taking into account ISO standards (31000, 31010, 37001) and in accordance with the **Methodology** of Corruption Risk Management, approved by the order of the National Agency for Prevention of Corruption dated 12.28.2021 No. 830/21 in the period from September 1, 2021, to August 1, 2022. The analytical process consisted of the three stages: environment analysis – i.e. identifying main stakeholders and prioritizing processes susceptible to corruption; defining corruption risks and identifying their causes; analysing legal safeguards and good practices of corruption risk mitigation. Data collection was carried out by monitoring secondary sources (register of court decisions, previous publications of various NGOs on corruption in education, mass media), and conducting 12 in-depth interviews and 3 focus groups with the 12 participants in total. Among the respondents were representatives of the education management bodies of local authorities, regional state administrations, heads of educational institutions, parents, representatives of the Ministry of Education and Science of Ukraine (MoE) and the Education Ombudsman, as well as experts from civil society organisations, in particular, parents' associations.

1. FINANCING OF PRESCHOOL AND SECONDARY EDUCATION

Financing is directly associated with ensuring the right to accessible and free pre-school and secondary education for the citizens and persons, who lawfully reside in Ukraine, guaranteed by the Constitution and the law of Ukraine 'On education'. The gratuitousness of secondary education for students is secured with state funds via education subvention and similar transfers, while local authorities finance physical infrastructure, non-teaching staff, school meals. Moreover, schools are allowed to attract charitable funding and grants. Schools are required to provide public financial reports on their websites while the form of these reports is not regulated.

Corruption risks in management of educational subvention from the MoE and in management of non-budgetary funds (charitable donations and grants) were identified (Table 1). If risks in management of subvention materialize, it causes insufficient funding of schools in the local network of educational institutions or unequal distribution of funds between them, a decrease in the quality of education, and deterioration of working conditions for teachers. Materialization of corruption risks in non-budgetary funds management is commonly followed by bullying children and their parents.

Table 1. Corruption risks and factors in education financing

Risk area	Corruption risks
Management of educational subvention from the MoE	<ul style="list-style-type: none"> ♦ overstatement of student numbers, ♦ biased distribution of budget funds between educational institutions, ♦ misuse in the distribution of funds for renovation, ♦ deliberate formation of residues of educational subvention
Management of non-budgetary funds (donations and grants)	<ul style="list-style-type: none"> ♦ accepting donations in return for school/kindergarten enrolment, ♦ regular 'voluntary-mandatory' collecting of donations, ♦ double financing of the same needs, ♦ embezzlement or appropriation of donations

Two overarching causes, which undermine independent (public) scrutiny, foster corruption in the management of educational subvention:

- Lack of data on children: missing independently verified registers of school-age children, including internally displaced ones, fosters data manipulation and reduces accuracy of funds distribution. In instances when necessary data is gathered, the lack of its registers or clear criteria for its collection and systematization does not allow use for other stakeholders.
- Lack/unclearness of principles for funds' distribution coupled with discretionary powers of authorized officials, when rules of allocation of state subventions from the regional to the local authorities are not sufficiently developed or communicated to the stakeholders.

Management of non-budgetary funds can be susceptible for corruption, because of lack of transparency of charitable funds and/or possible collusion of their leadership with school administration.

During our research, we gathered some **good practices for the prevention of corruption risks**, including:

- local government decrees and other documents, clarifying general legislation and filling existing gaps in regulation,
- various initiatives, both governmental and civic, to provide access to data for the general public, such as [interactive dashboard](#) and [Open Budget](#) platform by Ministry of Finance, voluntary reporting on the usage of charitable funds on school website, [open data platform](#) by Lviv city council, [interactive platform](#) with school budgets and [Open School initiative](#) (both are civic initiatives).

2. 2. APPOINTMENT OF HEADS OF EDUCATIONAL INSTITUTIONS (PRINCIPALS)

Heads of educational institutions (principals) are one of the key figures in education while they are granted with wide organizational, financial and personnel management autonomy. This autonomy is provided to empower them to elevate their institutions from the regime of functioning to regime of development, improving the quality of education. According to the Law ‘On education’, principals are appointed on a competitive basis for no more than two terms. The responsibility for competitive selection lies upon the founder of a given institution, i.e. a local authority of a corresponding level (municipality, district, region).

Corruption risks were identified in 5 stages of the principals’ selection procedure (See Table 2). Fulfilment of these risks virtually leads to the winning of insufficiently professional and corrupt candidates, provides opportunities for further undue influence on the winning candidate by local public officials or third parties and violation of principles of competitiveness, equality and transparency of the selection process.

Table 2. Corruption risks in selection of principals

Stage in selection process	Corruption risks
Failure to hold competitive selection	<ul style="list-style-type: none"> ♦ risk of appointing the head of educational institution according to the principle of favouritism
Preparation for the competition	<ul style="list-style-type: none"> ♦ risk of undue influence of local education authority on the personal composition of the selection committee ♦ risk of intentional reduction in competitiveness of the selection procedure, through creating additional selection criteria that intentionally limit candidate pool
Call for applications	<ul style="list-style-type: none"> ♦ intentional limiting of public access to information about the competition by failure to publish it or through undue publishing
Evaluation of competitors	<ul style="list-style-type: none"> ♦ risk of undue influence of local authority on evaluation results of candidates, through selection commission members ♦ risk of artificial over-/underestimation of test results of particular candidates, ♦ abuse in conducting and evaluating the written situational tasks
Selection of winner	<ul style="list-style-type: none"> ♦ creating faux obstacles for the formal appointment of the competition winner ♦ creating conditions for unjustified prolonging or termination of the contract with the current principal

Causes of corruption risks. Mostly these risks thrive upon unregulated parts of the selection procedure, such as absence of written tasks assessment system, unspecified responsibilities on the different stages of competitive selection process, discretionary powers

of an education institution's founder and no requirement for usage of technical means during candidates assessment process. Moreover, candidates, who were unjustly assessed have no means for out-of-court appeal against selection results. A significant disadvantage of competitive selection procedure is unsecured opportunity to scrutinize the selection process for other stakeholders, such as parents and their associations.

We highlighted several **legal safeguards**, designed to ensure transparency of selection and defining responsibilities for the local education authority as an organiser of a competitive selection, such as: an obligation to provide and publish video recording of selection process, to publish all the regulatory documents, adopted for the matter, and other relevant information regarding a procedure of competitive selection. Also, **positive practices** can be used, such as the selection procedure, developed by the Lviv Regional Military Administration which ensures parity-based formation of the selection commission, consisting of representatives of education authority, teachers, and the public; defining professional requirements for school principals to use in their performance assessment.

3. ADMINISTRATION OF EDUCATIONAL INSTITUTIONS

Administration of educational institutions directly influences safety and accessibility of educational environment and quality of education as administrative decisions shape physical and social environment for learners. In this report, we focus on school meals, property management and human resources management as areas, mostly referred to by interlocutors as prone to corruption risks (See Table 3). If materialized, the identified risks negatively affect quality of food and material-technical support of educational process, endanger physical safety of students and teachers and cause non-material losses for educational institutions, such as rising distrust towards them and decline of motivation among teachers. School principals are responsible for administration in their schools. Variation in financial management of school and accounting exists, whereby some schools (and, hence, principals) execute their financial decisions themselves (i.e. they have own accountants, plan and implement procurement), while others rely on accounting officers of the local departments of education.

Table 3. Corruption risks in administration of educational institutions

Administration area	Corruption risks
School nutrition	<ul style="list-style-type: none"> ♦ decreasing quantity or quality of food, ♦ favouring for particular supplier of food, ♦ food overpricing, ♦ overestimating number of children, ♦ entitled to free nutrition, soliciting payments for free nutrition
Property and land management	<ul style="list-style-type: none"> ♦ abuse while leasing school property, ♦ transfer of school lands for illegal construction, ♦ usage of school buses for commercial purposes (misuse)
Human resources management	<ul style="list-style-type: none"> ♦ abuse during payment of salaries to the teachers, ♦ abuse during provision of leave for the teaches under martial law, ♦ political agitation and electoral process in education institutions

Most of these risks arise from discretionary powers of the heads of educational institutions, poor regulation of relevant processes (e.g. poor regulation of contracts, lack of regulation on provision for leave for teachers etc) and lack of both public and state control on related administration processes. Here, weak external control derives from, in some instances, absence of legal mechanisms for control or unawareness of other stakeholders about their ability to participate in these processes.

Good practices of raising public awareness of the possibilities for public oversight in school administration include educational seminars by State Service of Ukraine on Food Safety and Consumer Protection and by Transparency International, 'Znaimo' campaign etc. We also

observed examples of inclusion of other stakeholders, such as establishing of the council on nutrition oversight in the school level in Koziatyn municipality, involvement of parents to control quality of school nutrition and others. In terms of human resources management, we observed good practices in defining existing gaps of legislation in collective contract on school level and activities of labour unions.

4. LEARNING AND TEACHING PROCESS

The report addresses corruption risks in two aspects of the learning and teaching process: enrolment to educational institutions, ensuring quality of teaching and assessment of learning outcomes (See Table 4). As much as nutrition, this fields are the closest for students and their parents in the entire span of educational institution management, which may include direct experience of corruption. Realization of the corruption risks in the learning and teaching process drives discrimination on material ground, biased enrolment of children and violation of right for education.

Table 4. Corruption risks in teaching and learning process

Teaching and learning area	Corruption risks
Enrolment to educational institutions	<ul style="list-style-type: none"> ♦ enrolment in high-rated schools of children, who do not reside in this school's area of service ♦ abuse during enrolment to kindergarten ♦ fictitious employment of parents to school and kindergartens to use the preferential rule for employees
Teaching and assessment of learning outcomes	<ul style="list-style-type: none"> ♦ 'choice without a choice' of learning programs ♦ misuse in provision of textbooks ♦ selling of good grades ♦ tutoring as a condition for good grades

Most commonly these risks reside on discretionary powers in educational institutions, scarce practice of technical support of relevant procedures (e.g., no e-waiting lists for enrolment etc.) and variety of unregulated aspects of this process (e.g., no legislative regulation to secure alternatives during a choice of learning programs, no verification procedure for documents that justify privileges etc.).

During our analysis we discovered several examples of **good practices**, which contribute to diminishing these risks. Among them are cases of voluntary public enrolment to educational institution on the basis of Blockchain by Drohobych city council, project of Ministry of Education to introduce free electronic school diaries. Moreover, parents and other stakeholders are provided with opportunity to report violations in this educational process to Educational Ombudsman by law.

MOVING FORWARD: 5 GUIDING PRINCIPLES FOR CORRUPTION RISK MITIGATION

The analysis of corruption risks, their causes, and good practices for their mitigation shows that there is not one, but several ways to prevent corruption. Moreover, the combination of different prevention mechanisms, corresponding to the local context, is most effective. Thus, instead of standard solutions for the communities, 5 guiding principles were identified for the development of a comprehensive and context-specific anti-corruption programs by organizations, institutions, and local authorities related to education:

Legal certainty – entails clarity, precision, and unambiguousness of all the legal norms and procedures, which regulate relationships in the sphere of education, including responsibility procedures for misconduct.

The subjectivity of interested parties – includes recognition and creation of opportunities for all stakeholders to participate in the educational process or management of educational institution.

Transparency and accessibility – entails access to information about the educational process, including financial reporting. All the information is precise, complete, up-to-date, corresponds to the specific needs of all stakeholders, and is presented in a user-friendly format.

Impartiality – indicates the equity and equality in treatment of all stakeholders, without subjective preferences, especially under conditions of one-person decisions.

Expediency – includes consideration of efficiency and effectiveness of anti-corruption programs with the primary aim to realize the rights and needs of a child, both short-term and long-term. Thus, the costs of anti-corruption actions are justified as potential benefits of its implementation.

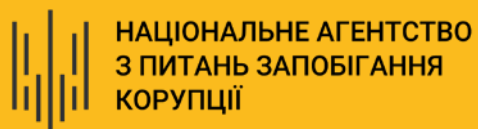
These principles should be systematically applied at the stage, when corruption risks have been analysed, as well as their causes have been identified. For each individual cause, the working group can systematically model the actions by asking how to fulfil each one of the principles to the specific problem identified.

This creative approach to anti-corruption allows three interrelated insights, that go beyond the education sector: First, corruption is recognised as a complex phenomenon that has its causes not only in the legislation, but also in organisational procedures and social norms. Therefore, it is often challenging to disentangle corruption risks from organisational inefficiency or individual attitudes. Given this complexity, the second insight is that often indirect anti-corruption measures are required to mitigate corruption risks. For example, in addition to the legal regulations, the normative standards should be communicated in a clear and understandable way to reach a broader audience; in addition to the regular institutional control and audit procedures, the key processes should open up for other stakeholders, who are affected by these processes (e.g. parents, pupils, teachers etc.). Finally, creating effective measures to prevent corruption requires a rigorous analysis of the environment, while effective implementation of those measures requires multi-stakeholder co-ordination and collaboration.



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