

PROPOSAL

For adoption of the Law on Changing and Supplementing the Law on Higher Education

-Draft – Law

I. CONSTITUTIONAL BASIS for the adoption of the Law is Article 46, Paragraph 2 and Article 68, paragraph 1, line 2 of the Constitution of the Republic of Macedonia.

II. REASONS FOR ADOPTING THE LAW

One of the reasons for adopting the proposed Law is to create adequate legal preconditions for efficient system of financing the higher educational activity. Namely, since the adoption of the Law on Higher Education in August 2000 until now, the new system for financing the higher educational activity, which was foreseen with the Law, did not start functioning, thus it had unfavorable repercussions and led towards difficulties with regards to the execution of the higher educational activity. The existing provisions in the Law foresee establishment of a Fund for higher educational activity within the Ministry of Education and Science that is going to be managed by the Fund Executive Board with status and authorities which are not clearly defined and do not correspond with the current system of financing. The need for new, more consistent legal provisions, which correspond with the budget and the financial system of the country, is in the context of the abovementioned.

Also, one of the main reasons for changing and supplementing the Law on Higher Education is the Decision of the Constitutional Court of the Republic of Macedonia, adopted in March 2003 on abolishing Articles 165, 168 and 178 of the Law on Higher Education, which refer to the recognition of high educational qualifications acquired abroad. This has created vacuum in the regulation of this matter, thus urgent changes and supplements with new provisions instead of the abolished ones, are needed.

Besides the aforementioned reasons, it should also be added that the proposed Law strives towards enabling more substantial realization of the university autonomy.

The need for changing and supplementing the Law is, also, a result of the findings with regards to the implementation of the Law in practice until now, whereas certain shortcomings have been determined as well as a need for different regulation of certain issues.

Also, following the European processes in a direction of including our educational system in the European educational field, as well as the forthcoming accession of our country in the Bologna process with the signing of the Bologna Declaration in Berlin in September this year, the changes and supplements to the existing legal regulations regarding the higher education become necessary.

III. BASIC PRINCIPLES

The Law that is proposed for adoption is based on the same principle on which the Law on Higher Education is based.

IV. CONTENTS OF THE LAW

The content of the Law is given in a form of a Draft Law.

V. ADOPTION OF THE LAW IN A SHORTENED PROCEDURE

Considering that the Law in question is not complicated or voluminous, in accordance with Article 152 of the Rule book of the Republic of Macedonia, it is proposed that the discussion on the Draft Law takes place on the same session when the Proposal for adoption of the Law on changing and supplementing the Law on Higher Education will be discussed.

DRAFT LAW ON AMENDING AND SUPPLEMETIG THE LAW ON HIGHER EDUCATION

Article 1

Article 7, paragraph 2 of the Law on Higher Education is replaced and reads:

“The state faculties, i.e. high vocational schools have one account for the regular activities through which they have the budget finances on disposal, as well as one or more separate accounts through which they have the finances realized through self-financing activities, donations and credits, on their disposal.”

Article 2

In Article 25 after paragraph 1 a new paragraph 2 is added and reads:

“The members of the Accreditation Board can not be persons elected for rector or vice-rector of a University, Dean of a Faculty, or director of a high vocational school and director of a scientific institution conducting high educational activity”.

Paragraphs 2, 3, 4, 5, 6, and 7 become Paragraphs 3, 4, 5, 6, 7, and 8.

Article 3

In Article 27, after paragraph 5 a new paragraph 6 is added and reads:

“The Minister of Education and Science, following obtained opinion by the Accreditation Board, shall determine the type and the amount of compensation for the expenses in the accreditation procedure”.

In paragraph 6, which becomes paragraph 7, after the word “works”, the words “for the needs of the Accreditation Board” are added.

Article 4

In Article 29, after paragraph one, a new paragraph 2 is added and reads:

The members of the Evaluation Agency can not be persons elected for rector or vice-rector of a University, Dean of a Faculty, or director of a high vocational school and director of a scientific institution conducting high educational activity”.

Paragraphs 2, 3, 4, 5, and 6 become paragraphs 3, 4, 5, 6, and 7.

Article 5

After Article 30 a new title and new Article 30-a are added and read:

“Organization and activities of the Evaluation Agency”

Article 30-a

The work and the manner of decision making with regards to the issues under jurisdiction of the Evaluation Agency shall be regulated in more details with a rule book adopted by the Evaluation Agency, following obtained opinion from the Accreditation Board for which the consent is given by the Government of the Republic of Macedonia.

Article 6

In Article 35, paragraph 1, line 4, the words “for indefinite time period” are erased.

Article 7

Article 36 is replaced and reads:

“Article 36

A University may be established if, in accordance with the terms set out in Article 35 of this Law, it has 5 accredited faculties and high vocational schools, out of which at least three are faculties”.

Article 8

In Article 46, paragraph 2 is replaced and reads:

“If it is determined that at least three professors with academic titles and three associate professors for each curriculum are selected and employed in the first and the second school year in accordance with this Law, and if other terms as stipulated in the decision for accreditation are fulfilled, the Minister in charge of the higher education affairs shall make a decision for the beginning of work of the higher education institution.

After paragraph 2, new paragraph 3 is added and reads:

The contract between the higher education institution and the persons referred to in paragraph 2, stipulates that they shall begin work two months before the beginning of the first, i.e. second school year at the latest.

The existing paragraphs 3 and 4 become paragraphs 4 and 5.

Article 9

In Article 47, paragraph 2, after the words “Rule book on” the words “the manner of executing inspection over the fulfillment of the conditions for beginning with work of the higher educational institution and on” are added.

In paragraph 5 of the same Article, the words “the manner of executing inspection over the fulfillment of the conditions for beginning with work of the higher educational institution”, are added with comma after the words “shall regulate”.

Article 10

In Article 68, paragraph 2 the full stop is replaced with comma and, the words “however, not more than two terms”, are added.

Article 11

In Article 70, paragraph 5, the second sentence is taken out.

After paragraph 5, 2 new paragraphs 6 and 7 are added, which read as follows:

“For the Act that has been stopped, the Rector starts a procedure before the competent court, and at the same time the rector starts a procedure before the Rectorate for abolishing the decision, i.e. the general Act contradicting the statute, another general Act or decision of the University and the Rectorate adopts a decision for abolishing.

The higher educational institution that has had its Act abolished, may appeal to the Senate. The decision of the Senate is final”.

Paragraphs 6 and 7 become Paragraphs 8 and 9.

After Paragraph 8 which becomes Paragraph 10, a new Paragraph 11 is added and reads:

“The Rector may call off the acknowledgement of the election of dean under circumstances determined in the University Statute, thus starts a procedure for his/her dismissal”.

Article 12

In Article 72, paragraph 1, line 5 the word “state” is replaced with the word “registered”.

In paragraph 2, bottom line, the word “senate” is replaced with the word “Rector”.

Article 13

In Article 73, paragraph 1 the words “faculty management” are replaced with the words “deans’ management”.

Article 14

In Article 75, paragraph 1, line 10, the word “state” is replaced with the word “registered”.

Article 15

In Article 78, paragraph 1, line 5, after the word “years” following a comma, the words “however, not more than two terms” are added.

Article 16

In Article 80, paragraph 1, the words “The Assembly of the Republic of Macedonia” are replaced with the words “The Government of the Republic of Macedonia.

In Paragraph 2 the words “The Government of the Republic of Macedonia” are replaced with the words “The Council for Development and Financing of the Higher Education (hereinafter: Council)”.

Article 17

The title before Article 82 is changed and reads “Council”.

In Article 82 the words “Fund for Higher Educational Activity (hereinafter Fund)” are replaced with the words “Council”.

Article 18

The title before Article 83 and Article are replaced and read as follows:

“Means for financing the higher education”.

Article 83

The means for financing the State Universities are provided from the Budget of the Republic of Macedonia and other forces set forth in this Law.

The means from paragraph 1 of this Article encompass the means for the participation in the financing of the private higher education institutions if, in accordance with this Law, financing is foreseen for higher educational activity as well as for curricula for which the Government of the Republic of Macedonia has determined that there is an interest for fulfilling certain needs through the higher educational activity, executed by the private higher educational institutions.

For each budget year, the Council, at the latest by 15 June, proposes to the Minister in charge of higher educational activity the amount of finances needed for the forthcoming year from the budget for financing the Universities and the independent higher educational institutions.

In Accordance with Article 82, paragraph 2 of this Law, the starting points for financing the State Universities are their annual financial plans, and for the private educational institutions - their programs.”

Article 19

The title before Article 84 and Article 84 are changed and read:

“Composition of the Council

Article 84

The Council shall be composed of 15 members from within the education scientific, Arts and scientific employees among whom there will be proportional representation of the social, technical, biological, medical, the natural and the mathematical sciences as well the Arts.

Upon proposal by the Minister in charge of higher education, the President and six members of the Council shall be appointed and dismissed by the Government of the Republic of Macedonia, and the Inter University conference shall elect eight members from among the professors with a secret ballot.

The members of the Council are appointed for a period of four years.

Representatives of the students, however not more than two, are included in the work of the Council.

Article 20

The titles before Article 85 and Article 85 are changed and read:

“Competencies of the Council

Article 85

Within its authorization, the Council:

- Proposes the Program for higher educational activity;
- Decides upon the distribution of finances for execution of the activities of the higher educational institutions;
- Decides upon the distribution of finances for investments for maintenance of the existing and purchase of new equipment, on approving finances for specialized literature and securing the amortization and insurance;

- Determines the standards and criteria for stimulating talented students and giving scholarships to students with outstanding results in their studies.
- Together with the Universities, it harmonizes the standards and the criteria for co-financing of the studies, as well as other forms of participation by the students enrolled in the State and Private higher educational institutions;
- Adopts a Rule book on its organization and work; and
- Performs other activities determined with a Law.

The distribution of finances from paragraph 1, lines 2 and 4 of this Article, shall be done by the Council within the limits of the foreseen finances for higher education in the Budget of the Ministry in charge of the educational activities, for the following year.

The Council also plans the means for participation in the financing of the private higher educational institutions, if the Republic of Macedonia has an interest for fulfilling certain needs through their educational Program.

Every three months the Council reports, and every year submits a report on its work to the Minister in charge of higher educational activity.

The Minister in charge of higher educational activity shall give approval for the Acts adopted by the Council.

The General Acts adopted by the Council shall be published in the “Official Gazette of the Republic of Macedonia”.

Article 21

The title before Article 86 is changed and reads: “Manner of conducting the activities of the Council”.

In Article 86, Paragraph 1 the words “The Fund and its subsidiary bodies” are replaced with the words “the Council”.

Article 22

In Article 89, Paragraph 1 the words “the Fund” are replaced with the words “the Council”.

Paragraph 4 of the same Article is erased.

Article 23

Article 95 is changed and reads:

The Macedonian language is a language of instruction in the higher education institutions.

In accordance with this Law and the Statute of the higher educational institution, in order to express, nurture and develop their identity and other peculiarities, the members of the communities shall have the right to acquire their education in the State higher education institutions, through certain study programmes in the language of the community, different than the Macedonian language. The State will provide financing for higher education in the language that is used by at least 20% of the population in the Republic of Macedonia.

Teaching at the private education institutions may be done in the languages of the members of the communities that are not in majority or in some of the world languages. When the language of instruction is a language of the members of the communities that are not in majority or a world language, the Macedonian language is studied as a separate subject and Macedonian will be used as language of instruction in at least two other subjects.

Elementary education as well as the education in the didactical and methodical subjects for secondary school teachers may be held in the languages of members of other communities that are not in majority in the Republic of Macedonia.

The lectures in the institutions of higher education can be held in one of the world languages for certain study programs of foreign languages, for parts of study programs in which professors-guests from abroad take part and study programs for which the lectures are held in the Macedonian language and in accordance with paragraph 2 of this Article. The institutions of higher education may offer that the lectures for the complete study program are held in Macedonian language and in one of the world languages in parallel.

In the private institutions of higher education, the lectures can be held in the languages of members of the communities, which are not majority in the Republic of Macedonia or in foreign languages. When the lectures are held in the languages of members of the communities that are not majority in the Republic of Macedonia or in foreign language, the Macedonian language shall be studied as a separate subject and the lectures shall be held in Macedonian at least for another two subjects.

When the lectures are held in the languages of members of the communities that are not majority in the Republic of Macedonia, in accordance with paragraphs 2, 3 and 4 of this Article, the Macedonian language shall be studied as a separate subject and the lectures shall be held in Macedonian language and at least other two subjects of the study program will be studied in Macedonian. The subjects shall be determined with the statute of the institution of higher education, which will determine the fund of lectures, determined in the Rules of norms and standards for establishing the institution of higher education and realizing the activity of higher education.

In the state institutions of higher education, as part of determining the conditions at the competition for enrollment of students in the first year of studies, the universities shall provide equitable representation of citizens, who belong to the communities that are minorities in the Republic of Macedonia through an additional quota, determined by the Government of the Republic of Macedonia.

Article 24

In Article 98, paragraph 4 the word “the Fund” shall be replaced with the words “the Council”.

Article 25

Article 102 is amended and reads:

“The Government of the Republic of Macedonia shall pass a decision on the number of students, who shall enroll in the state institutions of higher education, which education shall be financed by the budget of the Republic of Macedonia upon proposal by the state university and upon prior opinion by the Council.

The University shall pass the decision on the number of students who are enrolled in the state institutions of higher education outside the number determined with paragraph 1 of this Article, under the terms determined with this law.

The total number of students who can enroll in the institutions of higher education according to paragraphs 1 and 2 of this Article shall be determined according to the capacity determined with the decision on accreditation of the institution of higher education.

The management body of the private institution of higher education shall adopt the decision on the number of students who shall enroll in the private institution of higher education upon proposal by the education council i.e. the council of professors under the conditions, set forth in this law. The number of students cannot be higher than the one, determined with the accreditation of the institution of higher education.

The Government of the Republic of Macedonia shall pass a decision on the additional quota for enrollment of students, members of minority communities in the Republic of Macedonia.

The total number of enrolled students must not on any grounds, exceed the number of students for which the institution of higher education has been accredited”.

Article 26

Article 104 is amended and reads:

“Article 104

The graduate studies at the university (faculty) shall have duration of at least three years and at the most five years.

University diploma shall be issued for completed under-graduate studies in accordance with paragraph 1 of this Article in a manner and according to the conditions determined with this law.

The under-graduate studies at the vocational schools for higher education shall have duration of three years at the most.

For completed under-graduate studies, in accordance with paragraph 3 of this Article, the vocational school shall issue a higher education diploma in a manner and according to the conditions determined with this law.

The faculties and vocational schools may organize different forms of vocational instruction and training for acquiring vocational knowledge.

The faculties and the vocational schools for higher education shall issue certificates and other documents determined with the Statute of the university i.e. the independent institution of higher education to certify the acquired vocational knowledge and training from paragraph 5 of this Article.

Article 27

In Article 124, paragraph 2 the words “minimal period” and the second sentence are erased.

Article 28

In Article 133, paragraphs 2, 3 and 4, Article 134, paragraph 2 and Article 136 paragraphs 1, 2 and 3 the words “recognized by the state” are replaced with the word “published”.

Article 29

In Articles 137, paragraphs 5 and 6 are amended and read:

“The person stated in paragraphs 1, 2 and 3 of this Article shall be employed in duration of three years as a novice professor. The educational council shall determine the manner of professional specialization, monitoring and evaluation of the novice professor.

The research assistant i.e. younger lector is obliged to enroll to graduate studies at the latest in the next school year after being selected. The graduate studies fee shall be covered by the institution of higher education”.

Article 30

In Article 141, paragraph 1 the word “assistant” is erased.

Article 31

Paragraph 7 of Article 142 is erased.

Article 32

New paragraph 2 is added after paragraph 1 of Article 147, which reads:

“The person stated in paragraph 1 of this Article can perform the activity of higher education in the volume determined in the Rules of norms and standards for establishing institutions of higher education and for realizing the activity of higher education.”

In paragraph 2, which becomes paragraph 3, the number “1” is replaced with the number “2”.

Article 33

New paragraph 3 is added after paragraph 2 in Article 154, which reads:

“If the educational council determines that no candidate who meets the formal requirements for election in educational title has applied at the public announcement and if it determines the need to include a regular retired professor in the realization of under-graduate studies, the institution of higher education may exceptionally conclude an agreement for realization of these activities for one subject discipline for a period which cannot be longer than one academic year. The educational council shall determine the need of including the regular professor in retirement for each academic year, but not longer than three academic years”.

Article 34

New Article 165 is added following Article 164, which reads:

“Article 165

Recognition of the higher education qualifications or part of the higher education studies acquired abroad shall signify recognition of the diplomas and other public documents issued by foreign institutions of higher education or by accredited i.e. certified persons of the respective state.

The recognition of equality means that it is recognized the equal legal force with the appropriate higher education qualifications or part of the studies of higher education acquired in the Republic of Macedonia”.

Article 35

New Article 168 is added after Article 167 and it reads:

“Article 168

The applicant for validation of the high education qualification or part of the high education studies acquired abroad shall submit his/her request to the Ministry competent for issues related to higher education. The Information Center shall determine the validity of the original documents in the sense of their legalization,

verification of their authenticity, belonging of the institution in the system of higher education in the country where the high education qualification was obtained etc., i.e. and after establishing that the formal legal conditions were fulfilled the equality of the qualifications with the closest educational - scientific area for validation of foreign higher education qualifications are recognized.

Along with the necessary documentation, the applicant shall submit a statement, personally undersigned that the documentation is valid in accordance with the legal regulations in the country where it was issued and in the Republic of Macedonia.

Following the procedures stated in paragraph 1 of this Article, the equality with the closest educational - scientific area for validation of foreign higher education qualifications is recognized. The recognition is made by Expert commission for validation, established by the educational council of the state institution of higher education in the Republic of Macedonia, which is closest to the educational-scientific area for recognition of the foreign qualification.

After reviewing the entire documentation, submitted to the Information Center, the expert commission for validation prepares a decision on recognition of the higher education qualifications or part of the studies of higher education acquired abroad.

The chairman and the members of the expert commission sign the decision on validation. The decision is submitted to the Ministry competent for issues related to higher education.

The Minister competent for issues related to the higher education signs the final decision on recognition if he/she determines that the conditions stipulated by law have been fulfilled.

After reviewing the documentation submitted by the applicant, the institution of higher education is obliged to pass a decision within 4 months from the day of submitting the complete documentation. If the institution of higher education fails to conclude the procedure determined with this law within this period, the Ministry competent for issues related to the higher education, with a decision by the Minister shall determine another institution of higher education, closest to the area of study for recognition of the foreign qualification of higher education, to act according to the provisions of this Article”.

Article 36

Four new Articles are added following Article 168, namely 168-a, 168-b, 168-c and 168-d and they read:

“Article 168-a

If there is no institution of higher education in the Republic of Macedonia which would be closest to the area of study for the recognition of a foreign qualification of higher education, the Minister competent for issues related to higher education shall form an expert commission of 3 regular professors from the Republic of Macedonia and abroad that shall act according to Article 168 of this law.

Article 168-b

The Ministry competent for the issues related to higher education shall implement the ratified bilateral agreements on mutual recognition of diplomas under the conditions set forth in the bilateral agreement.

The expert commission for verification of recognized higher education qualifications or part of the studies of higher education acquired in countries with which the Republic of Macedonia has concluded bilateral agreements is formed by

decision of the Minister and is composed of professors from the institutions of higher education in the Republic of Macedonia, which are closest to the area of study for recognition of the foreign high education qualification as well as experts from the body competent for issues related to higher education.

The chairman and members of the expert commission shall sign the proposal-decision on verification.

The Minister competent for issues related to higher education shall sign the decision on validation of the recognized higher education qualifications or part of the higher education studies acquired abroad in accordance with the bilateral agreements.

Article 168-c

The recognition of the professional higher education qualifications or part of the professional higher education studies acquired abroad may be executed in the Ministries and other appropriate institutions in the Republic of Macedonia.

The detailed regulations for recognition of the professional qualifications or part of the professional higher education studies acquired abroad shall be passed by the body competent for issues related to the high education.

Article 168-d

The recognition of the professional qualifications or part of the professional higher education studies acquired abroad shall be performed if there are no significant differences between the higher education qualifications acquired in the Republic of Macedonia and the ones for which it is requested recognition”.

Article 37

New Article 178 is added after Article 177 and it reads:

“Article 178

The applicant who is not satisfied with the decision on recognition of the foreign higher education qualification may submit a complaint to the Government of the Republic of Macedonia”.

Article 38

In Article 180, paragraph 2, line 1 is amended and reads:

“- prepares the survey of the system of higher education and the system of institutions of higher education in the Republic of Macedonia as well as a survey of the system of higher education and the system of institutions of higher education abroad”.

In paragraph 2, line 13 in the last line the full stop is erased after the word “abroad” and the words “and communicates regularly with the ENIK/NARIK network” are added.

Article 39

New Article 180-a is added after Article 180, which reads:

“Article 180-a

In the course of the validation procedure, the committee for recognition, established by the educational council of the institution of higher education of the Republic of Macedonia, which is closest to the educational field for recognition of the foreign higher educational qualification, may ask for an opinion from the Information

Center on all aspects relevant for adoption of their decision and in particular on the following:

- information on the foreign systems of higher education;
- information on the legal status of the foreign institutions of higher education;
- information on the procedures for accreditation and systems for safeguarding quality
- information on the type of foreign degrees, diploma and titles, regulated and unregulated professions;
- information on the implementation and the type of Additional diploma and credit accumulative and transfer system;
- Information on the signed multilateral and bilateral agreements as well as all other international documents that are related to the recognition of accreditation;
- Information on the possibility for mobility and
- Other information that is significant for implementation of the responsibilities determined with this law and the international agreements.

The expert commission for verification of recognized higher education qualifications or part of the higher education studies, acquired in the states with which the Republic of Macedonia has ratified international bilateral agreements shall obligatorily request opinion from the Information Center according to the conditions, determined in the bilateral agreement.

The Information center shall be obliged to submit the requested information within one month”.

Article 40

New Article 181-a is added after Article 181 and reads:

“Article 181-a

When the Minister, competent for issues related to the higher education, determines that the institution of higher education has passed a decision, which is not in accordance with this law, the Minister shall point out to the illegitimacy of the decision and shall determine a deadline for correction of the illegitimacy, which shall not be shorter than one month.

Should the institution of higher education fail to remove the illegitimate decision within the determined period, the Minister competent for issues related to higher education shall issue a decision on termination or cancellation of the illegitimate decision.

The institution of higher education shall have the right to complain against the decision stated in paragraph 2 of this Article to the Government of the Republic of Macedonia.

Article 41

Paragraph 3 of Article 184 is amended and reads:

“The accreditation of study programs of the state institutions of higher education, i.e. of the state scientific institutions and for fulfillment of the other conditions for the realization of activities, stated in paragraph 1 of this Article, shall be performed until the end of March 2004”.

Article 42

The subtitle in front of article 188 is amended and reads: “Period for constituting the Council”.

In Article 188, paragraph 1 the words “the Fund” are replaced with the words “the Council”.

Paragraph 2 is amended and reads:

“The Council shall adopt the Acts, provided for with this law within three months from the day of appointing the Council members”.

Article 43

New Article 189-a is added after Article 189 which reads:

“Article 189-a

At the latest within 3 months from the date of entering into force of this law, the Interuniversity conference shall submit a proposal for new members in the Accreditation committee and the Evaluation Agency in the place of the present members, who cannot be elected as members of these bodies according to Articles 2 and 4 of this law”.

Article 44

New Article 191-a is added after Article 191 and reads:

“Article 191-a

After entering into force of this law, the enrolled students shall continue their studies in the duration as determined with the study programs according to which they were enrolled”.

Article 45

New Article 193-a is added after Article 193 and reads:

“The research assistants, who worked on this position at the moment of entering into force of this law, shall acquire the status of employed novice professors”.

Article 46

In Article 198 paragraph 1 the words “organized as at 15 August 2000” are added after the word “Macedonia”.

In paragraph 2, the word “2001” in the last sentence is amended and states “2005”.

Article 47

This law shall enter into force on the eight day from the day of publishing in the “Official Gazette of the Republic of Macedonia”.