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FEATURES OF THE IMPLEMENTATION OF THE LAW OF UKRAINE «ON EDUCATION»

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Abstract.

Purpose: the adoption of the Law of Ukraine "On Education", which is a systematic element of modern domestic legislation in the education area, has become an important step towards the formation of the legal framework for the functioning of all educational levels. One of the most urgent problems of this process is ensuring effective implementation of the new law. In its turn, it actualizes the study of the peculiarities and practical tools for the implementation of the basic legislative norms as an important condition for the basic law efficiency. **Methods:** to fulfill the research tasks general scientific and special methods of legal science have been applied. By means of the formal-logical method, the basic norms of the current legislation on education were analyzed, and the basic role of the law "On Education" was grounded. Applying the comparative legal method made it possible to note the Europeanisation of normative and legal support of the domestic educational industry and to determine the features of its implementation. **Results:** peculiarities of the formation and introduction of normative and legal support for the functioning of the domestic education system are analyzed. The compliance of the norms of the modern legislation on education with the European tendencies is argued. The most actual practical steps that will promote effective implementation of the Law of Ukraine "On Education" are underscored. **Discussion:** an important feature of the new basic law in the education area is the availability of independent norms and transitional provisions. Correspondingly, the further research is required by the harmonization of domestic legislation on education, the definition of the primary components of the legal and regulatory framework, which require development, harmonization of existing normative acts, the development of a system of measures to involve the general public in this process.

Keywords: basic law of the educational area, implementation, European standards of education, practical tools and conditions for the introduction of modern legislation on education.

1. Introduction

The adoption of the new statutory wording of the Law "On Education" by the Verkhovna Rada of Ukraine on September 5, 2017 marked the completion of the stage of updating the fundamental positions of the domestic legislation on education. This law is based on the Constitution of Ukraine and is the basis in the legal support system. Together with other legislative acts, it regulates the functioning of the scientific and educational sectors, in particular,

in relation to the general cultural development of citizens, their education as well as professional and scientific training.

That is why the successful implementation depends on the effectiveness of the development of the domestic educational media in compliance with the European standards on education quality. In this process, not only the universality and functionality of its norms, but also features and prospects of im-

plementation are highly valuable in terms of the establishment of civil society.

2. Analysis of the latest researches and publications

The issue of the development of current legislation on education in Ukraine is the object of scientific research of specialists in special branches of law, public administration, and history of pedagogy. In their papers, some aspects and features of the development of normative and legal support for the functioning of the domestic educational branch in Ukraine are substantiated. In particular, R. Shapoval covers the principles of legal regulation of the education development in the context of the formation of the educational services market [10]. In the thesis, A. Mazak analyzes the potential of the domestic legislation on education in relation to the introduction of modern models of state and public administration [7]. Ye. Krasnyakov conducts an analysis on the general prospects for the development of educational legislation [6]. Prospects of innovative development of the domestic scientific and educational industry in the dimensions of modern legislation are grounded by S. Holovko [3].

A number of papers are devoted to the legislative provision of the functioning of higher education as a key element of the educational and scientific branch of our state. Thus, the issues of the development of higher education legislation are actualized by S. Husarov [5]. N.L. Huberska studies the legal regulation of administrative and procedural activities in the higher education area [4]. The papers of V. Bahrushyn [1] and S. Holovko [2] highlight the main problems in the implementation of the law "On Higher Education" and suggest approaches to their solution.

3. Research tasks

Despite the urgency, the problem of the implementation of modern legislation on education remains insufficiently researched in legal science. Some of its aspects have developed due to the introduction of the Europeanized legislative norms, in particular, the Laws of Ukraine "On Higher Education" and "On Academic as well as Scientific and Technical Activities", which declared a fundamental change in the traditional foundations of the domestic scientific and educational industry. The dif-

ficulties of practical implementation of the updated legal and regulatory framework have led to the expediency of analyzing their causes and ways of overcoming them. In this context, it is the implementation of the Law of Ukraine "On Education" as the basic component of modern educational legislation that is a key condition for its effective action in civil society.

4. Research results

A noticeable public response, accompanied by the process of drafting and adopting a new version of the Law "On Education" is predetermined by its decisive place in the legislative provision of the domestic educational sector. The successful implementation of this legislative act involves public expectations of systemic transformations in education in compliance with international standards: the formation of a coherent state education policy, the introduction of progressive forms of public-government management in education; eliminating excessive and petty regulation of the current activities of educational institutions and significant increase in their autonomy; modernization of financial and economic mechanisms of educational institutions functioning; enhancing the role of the community in solving urgent educational problems; ensuring favorable conditions for the investment in education; the introduction of an effective system of qualitative management education and the formation of a modern market for educational services in Ukraine.

The innovativeness of the Law of Ukraine "On Education" is determined, in particular, by the fact that it forms the core element of the legislative framework, and proves the European vector of development of the national education system. In line with the tendencies of the development of the European educational and scientific space, the priority of the state policy for the provision of quality education is a key factor in social development [12].

In previous studies, we argued that one of the main factors inhibiting the innovation development of the national educational industry was the exhaustion of the regulatory resource of the previous wording of the Law "On Education", most of the norms and provisions of which were put into effect in the first half of the 1990's. [3]

This law is the basis of the current Ukrainian legislation on education and fulfills the basic regulatory function in the system of social relations that arise in the process of implementing the constitutional right of citizens to education. The law defines the rights and responsibilities of the educational process subjects, the competence of state and local self-government bodies in the education area. The law regulates education structure, the peculiarities of the functioning of educational institutions, the development of standards for education and curricula, qualifications and documents on education, education quality assurance, the rights and responsibilities of the educational process participants, issues of educating, professional development and remuneration for the work of pedagogical as well as scientific and pedagogical employees, management and control in the education area, features of educational infrastructure, financial and economic relations in the education area, international cooperation and scientific, technical, artistic, innovation activity.

According to the National Qualifications Framework, the Education Act provides for the following components of education: pre-school, full-time secondary, extra-curricular, specialized, vocational, professional pre-higher, adult education and postgraduate education. It also establishes the correspondence between the levels of education and the levels of the National Qualifications Framework [9].

Thus, the Law "On Education" defines the general legal principles of the domestic educational field at all 10 levels of the National Qualifications Framework (from zero to ninth). Its acceptance is an extremely important step in the development of a newer legislation. However, the practical implementation is no less important. The researchers that work in this area identify the following major problems in the implementation of the law on education: slow updating of the regulatory framework, errors and imperfections of the law itself, excessive expectations of the society, the problem of the lack of changes in other normative documents related to the adopted laws, the opposition to the introduction of certain legislative norms, the reluctance of some

educators to act on their own in order to improve education [1].

We share the opinion on the complex nature of the implementation mechanism and the priority of the problem of qualitative updating in the legislative provision of the educational sector on the basis of new methodological principles in this process. The process of implementing the new law has the peculiarities of its decisive mission in the legal and regulatory framework for the functioning of the educational sector. In particular, it defines the principles of national education functioning as an integrated system, its components and levels, the main functions, features of management and quality assurance. Accordingly, the process of drafting the law envisaged the concentration of specialists' efforts and a considerable amount of time for it.

It is also advisable to note that social expectation of its adoption has led to a long discussion and agreement of the basic legal norms. Polyfunctionality, structural and organizational complexity and the cumbersome of the educational sphere causes the need for the creation of a legislative system that respond to modern European standards that regulate the legal, organizational and financial mechanisms for the functioning and development of certain education levels.

Accordingly, the laws "On Preschool Education" (2001), "On Comprehensive Secondary Education" (1999), "On Vocational Education" (1998), "On Out-of-School Education" (2000) require substantial updates, which may be implemented through the approval of their new wordings. Active work is performed on the updated draft of these laws, and without their approval, it is impossible to design a significant and important segment of the educational industry. The postgraduate education project, which ensures the conditions for the formation of an effective system of citizens' continuous education and provides lifelong professional and personal development as well as meeting the needs of the society and the state in skilled personnel is being discussed.

Taking into consideration the new structure of the national education system, in particular, the separation of such a level as vocational pre-higher education, there is a need for the development of

relevant legislative acts that will form its legal framework.

From the legal point of view, the adoption of the Law "On Education" as the basic legislative act in the area of educational activities should precede the introduction of laws regulating the functioning of certain education levels. Meanwhile, at the time of the adoption of a new law in the legislative polo-educational activity, a paradoxical situation arose. It lied in the fact that it was preceded by the introduction of the law "On Higher Education" in 2014; it introduced the European standards in the educational area, which should provide a full integration of the international higher education to the European educational space [8]. Such a situation was evident, in particular, by virtue of entirely beneficial factors. On the other hand, the Europeanized Law on Higher Education was urgently needed to provide real changes in the higher education systems and the practical implementation of the National Framework of Qualifications, approved by the Cabinet of Ministers of Ukraine in 2011. The National Qualifications Framework (NQF) provides a summarized description of the qualification levels that were structured according to the competencies developed in compliance with the principles of the International Standard Classification of Education (2011) [13].

The Law of Ukraine "On Higher Education" became the first legislative initiative, which gave an opportunity to improve the traditional system of vocational education and training of scientific and pedagogical personnel of high qualification qualitatively. Accordingly, in 2016, leading domestic higher educational bodies and scientific institutions began to train doctors of philosophy in compliance with the modern educational programs of the European standard.

Therefore, we can conclude that the law "On Higher Education" as the first Europeanized normative legal act of the domestic legislation on education played an important role in the adoption of European educational standards and their reflection in the basic law of the educational branch. In practice, the Law "On Education" not only consolidated European norms and principles of higher education in Ukraine, but also broadened them to the education

system as a whole, introducing a level approach that is typical for European countries.

One of the leading tendencies in the modern domestic legislation on education is the normalization of procedures and mechanisms for ensuring its quality at all levels. The Law "On Education" defines the category of education quality as the correspondence of the results of training with the statutory requirements, the relevant education standard and the contract on the educational services provision. Article 67 of the law is determined by the bodies for ensuring the education quality, which include the central executive body for ensuring the education quality and the National Agency for the Quality Assurance in Higher Education as a permanent collegiate body [9].

The peculiarities of the foundation and functioning of the National Agency for the Quality Assurance were established by the Law "On Higher Education" in 2014. In April 2015, the Cabinet of Ministers of Ukraine adopted the Resolution on the foundation of the Agency, and in June 2015, its first members were elected. In August 2016, the head, deputy and personal staff of the Agency were appointed; the limit number and the staff number were determined. In May 2017, in accordance with the statutory powers, the Agency made an important practical step as it agreed the first draft of the Higher Education Standard.

However, due to the role of this body in qualitative modernization of higher education, the Law "On Education" amends and supplements the relevant provisions of the Law "On Higher Education". In particular, its purpose is a clearer outline of the tools for the Agency foundation and its core competencies.

In the area of the implementation of the provisions of the law "On Education", important steps have been taken in the issue of the normative and legal provision of higher education, taking into account the three years of experience in implementing the new law "On Higher Education", the issue of regulation of the basic and secondary education, which corresponds to the second and third levels of the National Qualifications Framework. In view of this, the Ministry of Education and Science of Ukraine developed a recommendation on the im-

plementation of the separate provisions of the Law. In particular, changes have been made with regard to the introduction of terminological changes: the term "comprehensive educational institution" is replaced by the term "comprehensive secondary education institution", "educative process" - "educational process", "preschool educational institution" - "institution of preschool education", "children, who require correction of physical and (or) mental development, long-term treatment and rehabilitation" - "children with special educational needs", "provision of educational services" - "educational activities", "higher educational institutions" - "institutions of higher education). One of the main principles of state policy and the principle of educational activity is the responsibility and accountability of education authorities and educational institutions as well as other educational entities to society. Accordingly, all educational bodies should create open public resources with information on their activities immediately and publish such information at their websites or the founders' websites. First of all, it is proposed to introduce the provisions of the new law on the quality assurance of education, the quality of educational activities, academic integrity, the compulsory formation of inclusive and special groups and classes for persons with special needs, the introduction of state supervision (control), institutional audit [11].

At the same time, public expectations of the legislation effectiveness should be backed up by the active role of all participants in the educational process, their direct participation in the developed practical mechanisms for the implementation of progressive norms, close interaction and effective communications. A set of all these issues will ensure the successful and most expeditious implementation of the Law "On Education". In this context, the three-year experience of implementing the law "On Higher Education" is extremely useful. An important part of this process was the involvement of the general public through the creation and support of a special electronic platform at Osvita.gov.ua.

On this platform, the public discussion of practical tools for the implementation of key provisions of the law in the on-line mode, the coordination of the plan and the timing of specific tasks, draft regu-

lations, necessary for the functional provision of the law "On Higher Education" was carried out. The electronic resource is structured according to the modules corresponding to the most important directions in the implementation of the new law (financing, network of higher education institutions, scientific activity, internationalization and mobility, technological support of education, classification of education, system of providing quality).

As we showed in the paper [2], this approach made it possible to develop specific tasks for the implementation of the basic legislative norms, to evaluate the prospects and difficulties, to choose the optimal mechanisms for achieving a positive result. The system also displayed information on the features and status of the design and fulfillment of a task, the responsibility of the institution and the expected implementation period. Each resource user had an opportunity to leave a comment or suggestion on the development of the relevant provisions, projects, plans and tactics. For the first time in the history of the domestic education branch, a system of public discussion of its legislative framework, designed on the European principles of openness and availability of educational resources, was introduced [14]. In the practical implementation of the Law "On Education", an important role was played by the workshops for scientific and pedagogical employees and students of higher educational institutions on explanation of the main legislative initiatives, conferences on implementation issues. One of the effective ways for monitoring the implementation of the law was the online questionnaire "On Some Issues of Implementation of the Law of Ukraine "On Higher Education", developed by the Ministry of Education and Science of Ukraine and posted on its website.

Therefore, one of the priority tasks in the implementation of the Law of Ukraine "On Education" should be the formation of a plan of certain measures for the implementation of legislative norms, ensuring a broad discussion and participation of public organizations, all participants in the educational process in it.

5. Conclusions

The Law of Ukraine "On Education" is the basis for all other special laws in the education area and

provides for a significant reform of the education system. Its important feature is that it contains many abrogation norms as well as final and transitional provisions. Accordingly, an important condition for the implementation of this law is the harmonization of educational legislation, first of all, in the area of updating the current legislation and adopting new legislative acts that determine the practical mechanisms for ensuring the functioning of all education levels (laws on preschool, comprehensive secondary, vocational, professional, post-graduate education).

For a large extent, the effectiveness of the law in practice depends not only on the institutional nature of its norms and the precision of its wording. The formation of the legal area as well as the initiative and responsibility of the entities involved in its implementation is significant. In view of this, a broad public discussion on the processes associated with the implementation of the basic educational law is relevant. In particular, through the creation of an open electronic resource that allows for the exchange of ideas and suggestions, it accumulates practical experience in this area. Systemic measures will also be expedient to involve practitioners of educational institutions of different levels in joint search for the tools to implement the basic provisions of the Law "On Education".

Taking into account that the educational sector brings together a significant number of subjects (scientific and pedagogical employees, pupils and students, parents, managers), compared to other sectors, the success of the implementation of the updated legislation significantly depends on their willingness to accept changes. Therefore, it is relevant to teach future teachers of gymnasiums and lyceums, high school lecturers, specialists in educational management to implement new legislation in the context of the introduction of new education standards. For instance, its achievement can be ensured through the introduction of special disciplines in educational law for masters, as well as raising the awareness on the essence of educational services for future educators [10].

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ОСОБЛИВОСТІ ІМПЛЕМЕНТАЦІЇ ЗАКОНУ УКРАЇНИ «ПРО ОСВІТУ»

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Мета: ухвалення закону України «Про освіту», який є системотвірним елементом сучасного вітчизняного законодавства в галузі освіти, стало важливим кроком у напрямі формування правового поля функціонування всіх освітніх рівнів. Однією із найбільш актуальних проблем цього процесу є забезпечення ефективної імплементації нового закону. Це, в свою чергу, актуалізує дослідження особливостей та практичних механізмів упровадження основних законодавчих норм, як важливу умову дієвості базового закону. **Методи:** для вирішення завдань дослідження були використані загальнонаукові та спеціальні методи юридичної науки. За допомогою формально-логічного методу здійснено аналіз основних норм сучасного законодавства про освіту та обґрунтовано базову роль Закону «Про освіту». За допомогою порівняльно-правового методу відзначено європеїзованість нормативно-правового забезпечення вітчизняної освітньої галузі та визначено особливості його імплементації. **Результати:** проаналізовано особливості формування та упровадження нормативно-правового забезпечення функціонування вітчизняної системи освіти. Аргументовано відповідність норм сучасного законодавства про освіту європейським тенденціям. Висвітлено найбільш актуальні практичні кроки, здійснення яких сприятиме ефективній імплементації Закону України «Про освіту». **Обговорення:** важливою особливістю нового базового закону в галузі освіти є наявність відсильних норм та перехідних положень. Відповідно подальшого розвитку потребують питання гармонізації вітчизняного законодавства про освіту, визначення першочергових складових нормативно-правового забезпечення, які потребують розроблення, узгодження чинних нормативних актів, розроблення системи заходів щодо залучення широкої громадськості до цього процесу.

Ключові слова: базовий закон освітньої галузі, імплементація, європейські стандарти освіти, практичні механізми та умови запровадження сучасного законодавства про освіту.

С.Г. Головко

ОСОБЕННОСТИ ИМПЛЕМЕНТАЦИИ ЗАКОНА УКРАИНЫ «ОБ ОБРАЗОВАНИИ»

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Цель: принятие Закона Украины «Об образовании», который является системообразующим элементом современного отечественного законодательства в области образования, стало важным шагом в направлении формирования правового поля функционирования всех образовательных уровней. Одной из наиболее актуальных проблем этого процесса является обеспечение эффективной имплементации нового Закона. Это, в свою очередь, актуализирует исследования особенностей и практических механизмов внедрения основных законодательных норм, как важное условие действенности базового Закона. **Методы:** для решения задач исследования были использованы общенаучные и специальные методы юридической науки. С помощью формально-логического метода осуществлен анализ основных норм современного законодательства об образовании и обосновано базовую роль Закона «Об образовании». С помощью сравнительно-правового метода отмечена европеизация нормативно-правового обеспечения отечественной образовательной отрасли и определены особенности его имплементации. **Результаты:** проанализированы особенности формирования и внедрения нормативно-правового обеспечения функционирования отечественной системы образования. Аргументировано соответствие норм современного законодательства об образовании европейским тенденциям. Освещены наиболее актуальные практические шаги, осуществление которых будет способствовать эффективной имплементации Закона Украины «Об образовании». **Обсуждение:** важной особенностью нового базового закона в области образования является наличие отсылочных норм и переходных положений. Соответственно дальнейшего развития требуют вопросы гармонизации отечественного законодательства об образовании, определение первоочередных составляющих нормативно-правового обеспечения, требующих разработки, согласования действующих нормативных актов, разработка системы мероприятий по привлечению широкой общественности к этому процессу.

Ключевые слова: базовый закон образовательной отрасли, имплементация, европейские стандарты образования, практические механизмы и условия внедрения современного законодательства об образовании.