



RESEARCH ARTICLE

Assessing the Peculiarities of Administrative and Legal Regulation of Higher Education in Ukraine

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ARTICLE INFO	ABSTRACT
Received: Apr 27, 2024	In every society characterised by a solid educational sector, higher education is one of the key spheres of that society's and continue to occupies a place in the modern sense by providing not only a person with a basic set of skills and abilities for future professional activities, but also includes active interaction during the educational process with the use of advanced information technologies. In essence, with other representatives of society, public organizations, professional communities and foreign experts, which is closely related to the constant need to improve the relevant administrative and legal regulation. The complex of these aspects determines the relevance of the topic. The purpose of the study is to analyze the peculiarities of administrative and legal regulation of higher education in Ukraine, taking into account the specific security realities of the martial law legal regime and the understanding of quality culture in higher education as established in international documents and positions of scholars. Such methods as analysis, synthesis, deduction, induction, and the logical and legal method are used in the article. The study analyzes the essence of higher education through the prism of European integration processes, non-discriminatory access to educational services, taking into account a wide range of interests of persons with special educational needs, providing students with knowledge and skills in the basics of combat training, mine safety, first aid under martial law, pedagogical skills and digitalization of educational services, as well as maintaining a high-quality culture in higher education. The administrative and legal regulation of higher education in Ukraine is based on legal principles, state policy in this area, and continuous control over its implementation.
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INTRODUCTION

European integration processes that cover all spheres of public life in Ukraine are also relevant in the context of reforming higher education in Ukraine and the relevant administrative and legal regulation of these procedures (Gningue et al., 2022; Jarrah et al., 2022; Jam et al., 2012; Levchenko et al., 2020; Tashtoush et al., 2022; Tashtoush et al., 2023; Wardat et al., 2021). These processes determine the restructuring of modern Ukrainian society, actualize the need not only for institutional and

regulatory changes at the state level, but also for each individual citizen to acquire new experience, skills and knowledge. In this context, higher education becomes a key sphere of society's life, which in the modern sense provides a person not only with a basic set of skills for future professional activities, but also includes active interaction during the educational process using advanced information technologies with other representatives of society, public organizations, professional communities and foreign experts.

The study opens up the prospects for a more comprehensive understanding of the essence of administrative and legal regulation of higher education in Ukraine and justifies the need to take into account the transformation of the higher education system under martial law, pedagogical excellence and digitalization of educational services, as well as a high culture of quality in higher education in further consideration of this phenomenon. This is fantastic when an interest is focus in an educational system when the best of services where supposed to be provided by the supposed higher educational platform in Ukraine, but we continue to question this suppose educational sector which have fallen short of the expectations of the society in ensuring a better education set up. The question one is tempted in posing is in ascertaining whether the higher educational Sector in Ukraine has really achieved its objective in providing quality services to it's population, this is really a pandemic of great concern that need to be looked upon and examined.

Purpose and objectives of the study

The purpose of this article is to reveal the specific features of administrative and legal regulation of higher education. To achieve this goal, it is necessary to solve the following tasks: to clarify the essence of the concept of higher education; to analyze the provisions of current legislation regulating higher education in Ukraine; to highlight the characteristic features of administrative and legal regulation of higher education.

The scientific novelty of the study consists in a critical examination of the essence of the phenomenon of higher education in the context of current challenges and restructuring of methodological foundations. The study presents the author's approach to a comprehensive understanding of the essence of higher education in modern realities, which can be taken into account in further scientific developments of the outlined issues. Truly the issue of great concern is to really assess of evaluate whether the higher educational sector of Ukraine is really meeting with the modern contemporary issues as far as higher education is concerned. The truth remain here that every educational sector that want to have quality and efficient services to it's citizens, must be able in meeting up with current expectations and services that satisfied the need of it's population.

MATERIALS AND METHODS

The purpose was achieved and objectives of the study were fulfilled by selecting and summarizing the sources which analyze certain features of administrative and legal regulation of higher education.

To this end, the author:

- a) studied and analyzed the works of domestic and foreign researchers on the essence of higher education;*
- b) analyzed the sources characterizing certain features of administrative and legal regulation of higher education.*

This made it possible to

- a) characterize the essence of higher education with due regard for European integration processes, non-discriminatory access to educational services, consideration of the interests of persons with special educational needs, provision of knowledge and skills required under martial law to students, and maintenance of a high quality culture of higher education;*

b) identify the legal framework, state policy in this area, and continuous control over its implementation as key features of administrative and legal regulation of higher education.

The following methods were used in the study

a systematic approach - to understand the essence and importance of higher education in the context of the challenges of our time;

descriptive analysis and logical and legal method - to identify the key features of administrative and legal regulation of higher education in Ukraine.

The generalization of research has given rise to several key aspects to which scholars pay special attention

1. The most pressing problems in the field of higher education include the need to protect the rights and freedoms of participants in the educational process in higher education, structural restructuring of the national higher education management system, improvement of the quality assurance system of educational services and inclusion of the principle of gender equality in the education system.

2. The main vocation of higher education is to form a special educational environment that would help to achieve a balance between the external goals of education (meeting the needs of the state and society for competent professionals) and internal (meeting the hierarchy of individual needs).

3. Bringing the level of organization and efficiency of the higher education system in Ukraine closer to the standards and requirements of the European educational area requires certainty, clarity, and specificity of legal regulation of administrative procedures in the activities of higher education institutions. We do understand that the European has a standard in all levels of implementation, and higher education is not left out in ensuring development and efficiency in the higher educational sector. Our problem or queries here is in verifying whether the higher educational sector of Ukraine has been able to respect and fulfilling these expectations of the European Union, as we continue to experience some challenges in this sector especially in the domain of security which continue to be a huge threat to this wonderful sector cherished by the society. It's really a matter of concern as far as quality and efficient education is concerned.

RESULTS AND DISCUSSION

K. Levchenko, M. Lehenkyi, S. Bondarchuk, Yu. Borodin and O. Shved (2020) include the need to protect the rights and freedoms of participants in the educational process in higher education, structural restructuring of the national higher education management system, improvement of the system of quality assurance of educational services and inclusion of the principle of gender equality in the education system among the most pressing problems of higher education. It is proposed to solve these problems by taking organizational, legal and methodological measures to ensure strict observance of the constitutional rights of all participants in the educational process, development of

democratic principles of organization of higher education and its transfer to public administration, institutional development of state bodies and institutions of Ukraine that ensure the protection of rights and freedoms in higher education, quality of higher education and appropriate regulatory and legal support for these innovations. In the light of this vision of the development of national higher education, which we fully share, along with the importance of maintaining a high culture of quality in higher education, non-discriminatory access to educational services and consideration of a wide

range of interests of persons with special educational needs are also important aspects.

The interpretation of higher education can be found in the provisions of a number of international documents. For example, in the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997), "higher education" is defined as all types of courses of study or groups of courses of study, as well as training of specialists or researchers at the post-secondary level, which are recognized by the relevant authorities as constituting part of its higher education system. In the International Standard Classification of Education (hereinafter - ISCED), developed by UNESCO in the early 70s of the twentieth century to be used as a "tool" for collecting statistical data on education for individual countries on an international scale, higher education is represented by five (first stage of higher education - bachelor's and master's degrees) and six (second stage - doctoral degree) degrees. Due to the allocation of two degrees for higher education, ISCED actually divides higher education into two streams: professional and scientific/academic (Postupna, 2010, p. 28-29). Some scholars reduce the main vocation of higher education to the formation of a special educational environment that would help to achieve a balance between the external goals of education (meeting the needs of the state and society for competent professionals) and internal (meeting the hierarchy of individual needs) (Marchenko et al., 2023, p. 51). In our opinion, higher education is the process of providing a person with special, systematized knowledge, skills and practical abilities in specialized educational institutions in order to develop worldview and social qualities, form special models of thinking, foster new moral and ethical values and develop psychological guidelines in a particular field of knowledge with the appropriate qualification that determines competence in a particular professional field. At the same time, in the context of martial law, the Ukrainian higher education system also faces the key task of providing students with knowledge and skills in the basics of combat training, mine safety, and first aid, which are becoming an integral part of the daily professional activities of domestic specialists in the new security realities.

In the context of analyzing the peculiarities of administrative and legal regulation of higher education in Ukraine, some scholars note that bringing the level of organization and efficiency of the higher education system in Ukraine closer to the standards and requirements of the European educational area requires certainty, clarity, and specificity of legal regulation of administrative procedures in the activities of higher education institutions. While internal administrative procedures include the procedures for making and implementing management decisions in the field of higher education, external administrative procedures include: constitutional administrative procedures in the field of higher education (establishment, reorganization and liquidation of higher education institutions); the procedure for regulating the activities of higher education institutions (licensing, registration, rating of higher education institutions); control and supervisory administrative procedures in the field of higher education (state control over the activities of higher education institutions, provision of educational services) (Bezpalova et al., 2020).

The administrative and legal regulation of higher education in Ukraine is based on legal principles, which include a significant group of administrative provisions. In this regard, Article 2 of the Law of Ukraine "On Higher Education" of 01.07.2014 No. 1556-VII states: "Legislation of Ukraine on higher education is based on the Constitution of Ukraine and consists of the Laws of Ukraine "On Education", "On Scientific and Scientific-Technical Activity", this Law and other regulatory legal acts, international treaties of Ukraine concluded in accordance with the procedure established by law. If international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine, establish rules other than those provided for by national legislation, the rules of international treaties shall apply. The rights of a higher education institution, which determine its autonomy, established by this Law, may not be limited by other laws or regulations".

Another key feature of administrative and legal regulation of higher education is the existence of a special state policy in this area. It is worthwhile to focus on the content of the latter to understand its manifestation in the field under study. In the generally accepted interpretation, public policy is a set of goals and objectives that are practically implemented by the state and the means used in this case (Nyzhnyk, et al., 2002, p.157).

U. Witt (2003, p. 77), considering the content of economic policy, notes that economic policymaking is viewed from three different perspectives: the political economy of actual policymaking ("what policy does"), the analysis of policy instruments for specific purposes ("what policy can do"), and the debate over policy goals and their legitimization ("what policy should do"). Central to the evolutionary perspective is the new, positive and normative knowledge that is uncovered during and after the policy-making process. It is argued that this implies patterns and limitations that expand and modify comparative-static interpretations of public choice theory, economic policy theory and social philosophy.

Another feature of the administrative and legal regulation of higher education is the need for systematic and continuous control in the field of its implementation. As a philosophical category, control is a function that naturally accompanies various human activities, provided that such activities must be performed in accordance with certain rules and aimed at achieving specific results (Ladychenko, 2009). Instead, N. V. Dykan and I. I. Borysenko (2008) notes that control is the process of achieving the organization's goals. The control process consists in determining the standards, the actual results achieved and making adjustments if the results achieved differ significantly from the defined standards. Control is very important for the successful functioning of an organization. Without control, chaos begins and it is no longer possible to unite the activities of any groups. It is also important that the goals, plans, and structures of an organization determine the direction of its activities, distributing its efforts in one way or another and directing the performance of work. In other words, control is the process of ensuring that a certain object complies with certain standards and rules, identifying deviations in its activities and determining ways to correct them. In the field of higher education, control is carried out in different areas and takes different forms. For example, according to Article 77 of the Law of Ukraine "On Higher Education" No. 1556-VII of 01.07.2014, there is state control over compliance by higher education institutions, regardless of their form of ownership and subordination to the legislation in the field of education and science and standards of educational activities. Thus, the control is aimed at checking the state of "the quality of higher education - compliance of the conditions of educational activities and learning outcomes with the requirements of legislation and standards of higher education, professional and/or international standards (if any), as well as the needs of stakeholders and society, which is ensured through the implementation of internal and external quality assurance procedures".

According to the Law of Ukraine "On Higher Education" (2014), the control of higher education standards involves verification of compliance with "requirements for higher education programs that are common to all educational programs within a certain level of higher education and specialty. Standards of higher education for each specialty are developed by the central executive body in the field of education and science, taking into account proposals of sectoral state bodies that ensure the formation and implementation of state policy in the relevant areas, sectoral associations of employers' organizations and approve them in agreement with the National Agency for Higher Education Quality Assurance.

A separate element of control activities in the field of higher education is licensing, which according to the Law of Ukraine "On Higher Education" is "a procedure for recognizing the ability of a legal entity to conduct educational activities in accordance with the license conditions for conducting

educational activities. The license conditions for conducting educational activities establish an exhaustive list of requirements that must be met by a higher education institution or research institution and an exhaustive list of documents to be attached to the license application. The license conditions for conducting educational activities determine:

- 1) *staffing requirements for employees with certain educational and/or professional qualifications;*
- 2) *technological requirements for the availability of a certain material and technical base together with data that allow its identification (for educational programs that provide for the award of professional qualifications in professions for which additional regulation has been introduced, and taking into account the need to create conditions*

for persons with special educational needs), etc."

At the same time, the peculiarities of administrative and legal regulation of higher education are closely related to the dynamics of such education, pedagogical skills and digitalization of educational services. Thus, some domestic scholars note that the formation of pedagogical skills of a higher education teacher takes place according to the general laws of the development of the teacher's personality, who must subordinate his or her activities to the general goals and principles of pedagogical influence on the student in order to ensure his or her comprehensive development. The process of development and improvement of pedagogical skills is carried out through all forms of educational and extracurricular work in a holistic mode of educational activities of a higher education institution. At the same time, the disclosure of the professional and educational potential of the teacher is based on the need for self-realization, conscious cognitive interest and self-identification (Tyurina et al., 2022, p. 56). We are deeply convinced that administrative and legal regulation of higher education is based on the level of pedagogical excellence, academic integrity and quality of educational services formed within the national higher education system, which are organically linked and form an appropriate quality culture. Ensuring high standards of this culture in all higher education institutions of Ukraine without exception is the main purpose of administrative and legal regulation of this area. We do understand that the State of Ukraine and enacted credible and plausible laws, and even ensuring the regulation of these laws by seeing in that it ensures a quality services to it's people, and equally respecting the fundamental human right and freedom of its citizens. The issue of interest here is not just the laws and regulations put in place by the supposed government, but rather in seeing that these laws are respected to the fullest by ensuring a total implementation of these laws. Putting in place laws is one thing, ensuring it's enforcement and implementation is another, as it will be futile that laws will be put in place in which it will be able in fulfilling it's expectations or objectives of creation. This will really be as aspect of perpetual hallucinations and continue questioning. Something really need to be done in ensuring efficiency and quality which will be the responsibility of the government.

An integral part of such a quality culture is the widespread use of distance education technologies in higher education institutions and in the daily activities of each individual employee. Some scholars argue that distance education has a number of advantages over traditional education: advanced educational technologies, accessibility of information sources, individualization of the educational process, a convenient consultation system, democratic relations between students and teachers, convenient schedule and place of work. The introduction of distance technologies in the educational process is aimed at a deeper understanding of the educational material, the formation of such competencies as: communicative (direct communication via the network), informational (search for information from various sources and the possibility of its critical reflection), self-educational (the ability to learn independently) (Shum et al., 2022, p. 708).

CONCLUSION

Thus, the above aspects emphasize the special social value and the need for higher education as a tool not only for educating the population, but also for training highly professional specialists in various fields of public life, who, with the help of their skills and abilities, ensure the functioning of the state, its continuous development, and the well-being of every citizen.

In the light of this vision of the development of national higher education, along with the importance of maintaining a high culture of quality in higher education, non-discriminatory access to educational services and consideration of a wide range of interests of people with special educational needs are also important aspects.

In our opinion, higher education is the process of providing a person with special, systematized knowledge, skills and practical abilities in specialized educational institutions in order to develop worldview and social qualities, form special models of thinking, foster new moral and ethical values and develop psychological guidelines in a particular field of knowledge according to the relevant qualification, which determines competence in a particular professional field.

The peculiarities of administrative and legal regulation of higher education are closely related to the dynamics of such education, pedagogical skills and digitalization of educational services. In view of this, administrative and legal regulation of higher education is based on the level of pedagogical excellence, academic integrity and quality of educational services that are organically linked and form the relevant quality culture within the national higher education system. Ensuring high standards of this culture, an integral part of which is the widespread introduction of distance education technologies in higher education institutions and in the daily activities of each individual employee, is the main purpose of administrative and legal regulation of this area.

CONFLICT OF INTEREST

The authors certify that they have no involvement in any organization or entity with any financial or non-financial interest in the subject matter or materials discussed in this paper.

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