

Legal basis of control in the sphere of higher education in Ukraine

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Abstract. The article examines the current issue of control in the field of higher education and the legal basis for its implementation. The concept of control in the higher education system is thoroughly analyzed, based on the analysis of a significant source base. It is emphasized that the Law of Ukraine «On Education» has incorporated changes in Ukrainian legislation in the direction of European integration processes, as well as positive experience in exercising control in the higher education system abroad. The principles and stages of controlling the quality of higher education in Ukraine are described. Using comparative law, dialectical, logical and other methods, the source, documentary and legislative base for exercising control in the field of higher education is analyzed. It is emphasized that today all participants in the educational process are faced with the problem of improving the quality of education, its adaptation to life realities: economic, social, cultural, demographic, etc. It is stated that Ukrainian higher education, determining the main paths of its reforms, has entered a period of practical assessment of its own mentality, established traditions in the field of forms and methods of education, quality control of knowledge, verification of their adequacy to the goals, objectives, and level of development of the general human, material and technological culture of society. However, it is indicated that the current legislation in the field of education still requires significant changes in terms of implementing control over the quality of education, in particular higher education, which, in turn, will contribute to the further development of both independent Ukraine and its people, in particular their scientific, economic and spiritual level.

Key words: control, quality of higher education, control in the system of higher education; higher education institutions, Law of Ukraine «On Education», management in the field of education.

Правова основа контролю у сфері вищої освіти в Україні

Анотація. У статті досліджується актуальне питання здійснення контролю у сфері вищої освіти та правова основа його реалізації. Ґрунтовно, на основі аналізу значної джерельної бази, проаналізовано поняття контролю в системі вищої освіти. Підкреслено, що Закон України «Про освіту», увібрав у себе зміни українського законодавства у напрямі євроінтеграційних процесів, а також позитивний досвід здійснення контролю в системі вищої освіти за кордоном. Подано характеристику принципів та етапів контролю за якістю вищої освіти в Україні. За допомогою

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порівняльно-правового, діалектичного, логічного та інших методів проаналізовано джерельну, документальну та законодавчу бази щодо здійснення контролю у сфері вищої освіти. Наголошено на тому, що нині перед усіма учасниками освітнього процесу стоїть проблема підвищення якості освіти, її адаптації до життєвих реалій: економічних, соціальних, культурних, демографічних тощо. Констатовано, українська вища школа, визначаючи основні шляхи своїх реформ, вступила в період практичної оцінки власного менталітету, сформованих традицій у сфері форм і методів навчання, контролю якості знань, перевірки їх адекватності цілям, задачам, рівню розвитку загальнолюдської, матеріальної і технологічної культури суспільства. Натомість, вказано, що чинне законодавство у сфері освіти все ще потребує суттєвих змін щодо здійснення контролю за якістю освіти, зокрема вищої, що, у свою чергу, сприятиме подальшому розвитку і незалежної України, і її народу, зокрема їх наукового, економічного та духовного рівня.

Ключові слова: контроль, якість вищої освіти, контроль в системі вищої освіти; заклади вищої освіти, Закон України «Про освіту», управління у сфері освіти.

Introduction

Problem statement. Today, all participants in the educational process are faced with the problem of improving the quality of education, its adaptation to life realities: economic, social, cultural, demographic, etc. Ukrainian higher education, determining the main paths of its reforms, has entered a period of practical assessment of its own mentality, established traditions in the field of forms and methods of education, quality control of knowledge, verification of their adequacy to the goals, objectives, and level of development of the general human, material and technological culture of society. Current legislation in the field of education requires significant changes in terms of implementing control over the quality of education, in particular higher education, and will contribute to the further development of both independent Ukraine and its people, in particular the scientific, economic and spiritual level.

The state of research on the problem. The issues of controlling learning outcomes were studied by V. Averyanov, S. Andreychuk, D. Andreeva, V. Andrushchenko, S. Babiy, M. Baymuratov, Ya. Bolyubash, N. Bortnyk, S. Hryhanska, L. Hrynevych, N. Huberska, O. Dniprov, E. Zozulya, V. Kremen, M. Kurko, M. Lehenky, V. Lugovyi, V. Mayboroda, S. Mosyondz, V. Nagrebelyny, V. Ortynsky, N. Raksha, M. Stepko, O. Svyatotsky, I. Khomyshyn, N. Khrystynchenko, R. Shchokin, etc. The research of these and many other scientists in the field of knowledge control is very relevant, since the problem of testing and assessing the knowledge of higher education applicants, in particular, remains not fully resolved. However, in light of recent changes in current legislation, scholars have not paid sufficient attention to novelties of control in the higher education system of Ukraine.

The purpose of the article is to analyze control in the sphere of higher education in Ukraine, in particular, to characterize the concept and stages of control in the sphere of education in Ukraine, as well as to study the Law of Ukraine «On Education» in terms of the control system in the sphere of education.

Results

In Ukraine, as in many developed countries of the world, higher education is recognized as one of the leading sectors of society development. Strategic directions for the development of higher education are determined by the Constitution of Ukraine, the current legislation of Ukraine, in particular, the Laws of Ukraine «On Education», «On Higher Education», the Strategy for the Development of Higher Education in Ukraine for 2022–2032 and other regulatory acts.

Changes in the social and economic conditions of life in Ukraine have not bypassed the higher education system, which requires new approaches to the study and understanding of

the pedagogical process in a higher educational institution [1, p. 9]. Obviously, we believe that this also applies to the system of quality control of education in the state as a whole.

It is advisable to begin the study of the issue of control in the field of education in Ukraine by clarifying the theoretical concept of control. The term «control» comes from Latin (from which the French word «controle» was formed, meaning comparison or opposition). In the Big Explanatory Dictionary of the Modern Ukrainian Language, the term «control» is defined as «1. Verification of compliance of the controlled object with the established requirements. ...» [2, p. 569].

At the same time, in scientific literature the word «control» is also used in the following meanings: 1) checking, accounting for the activities of someone, something, supervision over someone, something; 2) an institution or organization that supervises someone, something or checks someone, something. From an etymological point of view, control is a comparison (comparison or opposition) of several statements [3, p. 258–260].

One of the main types of control is state control. State control is always carried out on the basis of legal norms and has legal consequences. The legal nature of state control is manifested in the fact that it is carried out by state bodies and their officials within the limits determined by legal norms, on the basis of legal norms and in accordance with them [4, p. 11].

In the field of higher education, control is carried out by a specially authorized central executive body, i.e. the Ministry of Education and Science of Ukraine, the regulation of which is approved by the Resolution of the Cabinet of Ministers of Ukraine dated October 16, 2014 No. 630 «On Approval of the Regulation on the Ministry of Education and Science of Ukraine» [5].

The purpose of state control in the field of higher education is to ensure the implementation of a unified state policy in the field of higher education, compliance with higher education standards, regulatory legal acts on higher education in all higher education institutions, regardless of the form of ownership and subordination. Based on the purpose of state control over the provision of educational services in the field of higher education, the following tasks can be distinguished: ensuring legality in the activities of higher education institutions; providing assistance to higher education institutions in eliminating identified violations and shortcomings; assessing the quality of implementation of management decisions; improving discipline [6, p. 181-182].

Based on the general principles of state control, we will highlight the principles of state control over the provision of educational services in the field of higher education, in particular the following: legality; objectivity; transparency; systematicity; comprehensiveness; effectiveness; efficiency [6, p. 183].

The principle of legality is the main principle of state control and consists in the implementation of activities by the controlling bodies in the field of higher education within the limits and in the manner established by laws and other regulatory legal acts. The principle of objectivity provides that state control over the provision of educational services in the field of higher education should be based on objective facts. The principle of transparency consists in the openness of the activities of the bodies that exercise control over the provision of educational services in the field of higher education and regular informing of citizens about the compliance of educational institutions with established standards when providing educational services. The principle of systematicity is embodied in the fact that state control over the provision of educational services in the field of higher education should be carried out constantly. The principle of comprehensiveness helps to identify and disseminate positive experience, prevent errors and omissions. The principle of effectiveness boils down to the fact that state control should help educational institutions achieve maximum efficiency in their activities [6, p. 183].

We agree with the opinion of S. M. Kushnir that the principles of state control over the activities of educational institutions are part of a broader concept - the principles of educational

management, which should be included as a separate group in the system of principles of the state's educational policy [7, p. 227].

The principles of state control over the activities of educational institutions in Ukraine are a system where the implementation of one principle is ensured by the implementation of others. The elements of the system include the following principles: a combination of state and public control; transparency of control while preserving state, commercial and other secrets protected by law; a combination of external and internal control, including self-control; single leadership and collegiality; coverage of the competence of controlling bodies of all management structures based on various forms of ownership and sources of financing of educational institutions; social determination; feedback; certainty of forms and methods of state control at the legislative level; the presence of grounds defined by law for the implementation of control measures; humanization of control; constructiveness of control activities; scientificity; systematicity; responsibility of all participants in control measures; control and accountability of the state control body to the relevant state authorities; exchange of experience; non-interference of the state control body in the statutory activities of the object, if it is carried out within the framework of the law; reliability of the information being controlled; objectivity of information about the object of control; sufficiency of information about the object of control; impartiality of the subject of control; systematicity and regularity of control measures for the continuity of control over the periods of operation of the object of control; efficiency; independence; cost-effectiveness [7, p. 227-228].

It is worth noting the conclusion of S. M. Kushnir that state control in the field of education can be characterized as a process that includes a number of consecutive stages (five): Preparatory stage, which includes two different types of planning. Content-technological, which includes a number of active actions of control subjects using various methods and techniques for obtaining valid information about the state of the object or certain objects, including establishing the identity of discrepancies (detection, quantitative assessment), documenting information. Final, which includes assessing the state of the object or the state of certain objects on it, developing and formalizing a decision by control subjects, discussing it. Informing about the results of control. Control over the implementation of decisions made based on the results of control [8, p. 176]. We agree with the author's opinion that the implementation of the specified stages in regulatory legal acts when regulating state control over the activities of educational institutions in Ukraine will contribute to increasing the effectiveness of control in this area. Conversely, the lack of regulation of individual stages or their imperfect regulation creates the prerequisites for non-implementation of decisions based on the results of control activities [8, p. 176].

It is noteworthy, as duly substantiated, that O. Korinna's conclusion that at the current stage of development of the higher education system, the importance of control increases due to the fact that the output often does not meet educational standards. While in order to measure the actually achieved results in the didactic and educational system, control becomes extremely necessary [9, p. 109-112].

The Law of Ukraine «On Education» is the basic legislative provision for education in general. Even before its adoption, it was said that this Law would allow updating special laws (primarily, «On Secondary Education» and «On Vocational Education»), and creating new necessary ones («On the National Qualifications System») [10].

It is worth noting that the fifth section of the Law is devoted to ensuring the quality of education. According to Part 2 of Article 41 of the document, the components of the education quality assurance system are: a quality assurance system in educational institutions (internal education quality assurance system); a system of external education quality assurance; a system of quality assurance in the activities of management bodies and institutions that carry out external education quality assurance [10].

The quality assurance system at the level of an educational institution (internal education quality assurance system) includes: development by an educational institution of a strategy (policy) and procedures for continuous improvement of the quality of education; creation and continuous improvement of the system and mechanisms for ensuring academic integrity; development, monitoring, periodic review and improvement of educational programs; independent assessment of education seekers based on clear and published criteria, rules and procedures; assessment of the quality of educational activities of pedagogical and scientific and pedagogical workers by education seekers; assessment of the quality of managerial activities of heads of educational institutions, activities of pedagogical and scientific and pedagogical workers; ensuring the availability of necessary resources for organizing the educational process, including for independent work of education seekers, for each educational program; ensuring the availability of information systems for effective management of the educational institution; other procedures and measures determined by a special law or constituent documents of the educational institution [10].

The system of external quality assurance of education includes: 1) a list of tools, procedures and measures for ensuring and improving the quality of education, in particular: standardization; licensing of educational activities; accreditation of educational programs; external independent assessment of learning outcomes; monitoring of education quality; institutional audit; certification of teaching staff; 2) bodies and institutions determined by special laws that are responsible for external independent assessment of education quality and development of the quality assurance system and: make decisions within the limits of their powers based on clear and published criteria; conduct periodic inspections of quality assurance systems of educational institutions; provide recommendations for improving quality assurance systems; report to society on the principles of transparency, accessibility and understandability [10].

The quality assurance system in the activities of bodies and institutions that manage the processes of external quality assurance of education includes: the formation of policies and procedures for continuous improvement of the quality of their own activities; ensuring the availability of necessary resources for the organization of processes and procedures; external independent audit of the activities, processes and procedures of bodies and institutions; mutual inspections. At the same time, the legislator notes that the features of the functioning of the quality assurance system at each level of education are determined by special laws [10].

Article 32 of the Law of Ukraine «On Education» regulates the issue of education standards. The education standard determines the requirements for the education of education seekers and the educational program of the corresponding level regarding: the content of education in terms of learning outcomes; duration and scope of training; list of mandatory graduate competencies; requirements of professional standards (in their absence - qualification characteristics). It is worth emphasizing that education standards for professional (vocational and technical) and higher education are developed for each specialty and different levels of training. Education standards are approved by the central executive body in the field of education and science and are developed in accordance with the National Qualifications Framework and are used to assess the quality of the educational program in the process of its accreditation [10].

According to Article 43 of the Law of Ukraine, educational activities are carried out on the basis of a license issued by the licensing authority in accordance with the legislation [10].

Article 44 of the Law of Ukraine is devoted to the accreditation of educational programs. The accreditation of educational programs of higher education institutions is carried out by the National Agency for Quality Assurance in Higher Education [10].

The legislator also provides for institutional audit in Article 45. Institutional audit is a procedure for external assessment of educational and management processes in educational institutions that ensure effective work and sustainable development of the educational

institution. Institutional audit of educational institutions is carried out by the central executive bodies for ensuring the quality of education (in the field of preschool, general education, extracurricular and vocational education), the National Agency for Quality Assurance of Higher Education (in the field of higher education) in the manner determined by the central executive body in the field of education and science.

Article 47 of the Law of Ukraine regulates the issue of conducting external independent assessment, i.e. assessment of learning outcomes achieved at a certain level of education. The legislator rightly emphasizes that external independent assessment is carried out on the following principles: validity; objectivity; reliability; responsibility [10].

From the point of view of the research topic, special attention should be paid to the issue of education management, which is also devoted to the eighth section of the Law. According to Article 62 of the aforementioned document, education management bodies include: the Cabinet of Ministers of Ukraine; the central executive body in the field of education and science; central executive bodies, other bodies, institutions and organizations to which educational institutions are subordinate; the central executive body for ensuring the quality of education; the National Agency for Quality Assurance in Higher Education; the Verkhovna Rada of the Autonomous Republic of Crimea; the Council of Ministers of the Autonomous Republic of Crimea; local executive bodies and local self-government bodies.

Articles 63 and 64 of the Law of Ukraine «On Education» regulate the powers of the Cabinet of Ministers of Ukraine in the field of education, the central executive body in the field of education and science [10].

The Resolution of the Cabinet of Ministers of Ukraine dated April 15, 2015 No. 244 «On the Establishment of the National Agency for Quality Assurance in Higher Education» provides for the establishment of the National Agency for Quality Assurance in Higher Education, and also approved the Statute of the specified structure.

In our opinion, the provisions of Article 68 on the openness of education management bodies are important. Information on the procedures and results of decision-making by education management bodies is subject to mandatory publication in accordance with the requirements of the Laws of Ukraine «On Access to Public Information» and «On the Transparency of the Use of Public Funds». In turn, the legislator emphasizes that it is prohibited to restrict access to information on the state and quality of education.

An important place among the supervision (control) in the field of education, the legislator devotes (in Article 71) to public supervision (control). Public supervision (control) in the education system is carried out by public associations, the constituent documents of which provide for activities in the field of education, professional associations of pedagogical and scientific-pedagogical workers, associations of education seekers, associations of parent committees and bodies to which they delegate their representatives.

The Law (Article 73) also regulates the activities of the Institute of Educational Ombudsman, which is an official entrusted by the Cabinet of Ministers of Ukraine with the implementation of tasks related to the protection of rights in the field of education.

In the context of the activities of higher education institutions, the aspects we have mentioned are also reflected in the Law of Ukraine «On Higher Education» (in particular, Chapter 14) [11].

We agree with the opinion of I. I. Lytvyn that control is not carried out for its own sake and is not aimed at exerting pressure on the object, but is aimed at improving, improving the latter, optimizing, increasing the quality and efficiency of its functioning, use by identifying and eliminating existing shortcomings and deviations in it, as well as, if necessary, bringing the persons responsible for their appearance to appropriate legal responsibility [12, p. 193].

Conclusions

Analyzing the issue of quality control of higher education in Ukraine, we come to the conclusion that there is a need for radical changes in this area. The Law of Ukraine «On

Education» has incorporated changes in Ukrainian legislation in the direction of European integration processes, as well as positive experience in exercising control in the higher education system abroad. The adoption of the new Law of Ukraine «On Education» has contributed to the expansion of control functions in the field of higher education.

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