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**PROSPECTIVE DIRECTIONS OF LAW-MAKING FOR
MODERNIZATION OF EDUCATIONAL AND SCIENTIFIC SYSTEMS OF
HIGHER EDUCATION INSTITUTIONS**

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The article reveals prospects for legislative implementation of educational and scientific systems of higher education institutions in the circumstances of European integration of educational space as envisaged by constitutional provisions of Ukrainian education. It highlights stages in evolution of ideological basis for development of the legislative process in the field of education. It has been found that the first stage established the ideology for development of a national education system; the second stage launched modernization of the national education in accordance with the European standards and principles; the third stage activated the potential for modernization of Ukrainian school on the basis of social equality and cohesion, economic development and competitiveness of Ukraine. The article exposes directions in development of legislation in the field of education which are determined by structural components. It has been established that development of each of the listed areas is covered in provisions of two framework laws on education, state programs and branch-specific laws that have been approved since Ukraine has proclaimed its independence. Analysis of the abovementioned sources facilitated exposure of certain advantages and contradictions, the consideration of

which is an important precondition in forming a new regulatory environment for education.

Key words: law of Ukraine, higher education, stages and prospects of law-making.

Problem definition. Ideological foundations and main directions of law-making in the field of education are determined by the Constitution of Ukraine as well as by the documents regulating development of education in the European space – the Lisbon treaty and the Bologna process agreements, and other documents of all-European scope. Internal and external priorities of law-making for education suggest considering the question of general ideology of this process which began with adoption of the Act of Declaration of Independence of Ukraine. It is with declaration of the sovereign Ukrainian State that democratic changes became possible: renouncing unification, ideologization and Russification in the field of education; developing a national education system that would differ from its Soviet predecessor; implementation of the national school reform. It was the period when the regulatory framework for development of Ukrainian education was elaborated actively (The concept of national secondary school in Ukraine, 1990; the Law of Ukraine “On Education” (1991) [1, P.18]. The latter was the main regulatory document for Ukrainian education and was repealed only in September 2017 after the new framework law was adopted. Therefore, when outlining the constitutional foundations for development of Ukrainian education and their representation in main laws and public documents regulating the field of education, it should be considered that the founding provisions for legal regulation of education had been established with the corresponding law almost 5 years before the Constitution of Ukraine was adopted in 1996.

Analysis of recent research works and publications. The term “vocational education” is first mentioned in the state program “Osvita” (Education) [2]. Articles 40, 41 of the first national law on education tend to use the term “vocational technical training,” traditional for post-Soviet territories. The chapter “Vocational education” of this state program contains reconsidered goals and expected results for the corresponding level of education which envisage, among other things, “creation of socially active, morally and physically sound national industrial potential that should play an important role in technological upgrade of production and practical implementation of latest technological and scientific achievements” [2].

The requirements are outlined in the Law of Ukraine “On Vocational (Technical) Education” as a “complex of pedagogical and organizational-managerial activities intended to ensure people’s acquisition of knowledge, skills and techniques in occupational areas they have selected, as well as development of competence and professionalism, building general and professional culture” [3]. The law envisages that vocational technical training provides not only obtainment of a profession, but also pre-professional training, retraining, and advanced training; it also regulates issues in organization and management of vocational technical training.

In the field of vocational education, the National Doctrine envisages the following: providing an opportunity to obtain free primary vocational training at state and municipal vocational technical schools; developing a network of vocational technical schools of various types, professional profiles and patterns of ownership with consideration of demographic projections, regional peculiarities and labour market needs; combining vocational technical and comprehensive secondary education, ensuring variability and flexibility of vocational curricula with consideration of changes in the labour market and demand for new professions; creating conditions for corresponding institutions to provide educational and other services to

the population, in particular, obtainment of qualifications or advanced training, as well as retraining of unoccupied population; developing cooperation with institutions placing orders for staff training and with the state employment service; facilitating cooperation with employers in provision of vocational technical education; upgrading physical facilities and implementing information technologies [4]. In the law “On Education” vocational education is regulated by Article 15, which states its goal as “forming and developing of a person’s professional competence required for professional activities in certain occupation areas, ensuring their competitiveness in the labour market, mobility and prospects for career development throughout their life” [5]. The corresponding law also determines conditions for obtaining proper type of education and its levels, with qualifications specified in accordance with the National Qualifications Framework.

Finally, the field of higher education is the focus of education-related laws and state programs. Article 42 of the first law on education [1] defines higher education as the kind of education that “ensures fundamental scientific, professional and practical training...,” determines the form of higher education, government guarantees for its obtainment, as well as peculiarities in the work of higher education institutions.

The chapter “Higher Education” of the state program “Osvita” reflects the expectations of society as to development of spiritual culture of the Ukrainian people and the future place of Ukraine in the global “society of knowledge” [2]. The part of the National Doctrine dedicated to problematics of higher education indicates that the following activities are envisaged in order to ensure equal access to quality higher education: implementation of an effective system to inform the public about opportunities to obtain higher education; creation of conditions for pursuit of free higher education at state-funded and municipal educational institutions

on a competitive basis; improved legal grounds for obtainment of education at the expense of budgets of all levels, and at the expense of physical persons and legal entities; expanded opportunities to obtain higher education by way of individual lending; creation of conditions for orphaned children, children deprived of parental care, and disabled children to pursue higher education; ensuring proper quality of higher education and occupational mobility of university/college graduates in the labour market by way of integrating institutions of higher education of various accreditation levels, research institutions and enterprises, and by introducing flexible curricula and information technologies for education; adherence to principles of democracy, transparency and publicity in forming the student body, including by way of objective examination; creation of conditions to provide instruction in accordance with personal needs and labour market demands [6]. The Law of Ukraine “On Higher Education” [7] facilitates integration of Ukraine into the European space of higher education. For many years, the uncertainty as to prospects and principles of relations between Ukraine and the European Union has been limiting opportunities for full-fledged integration of the Ukrainian system of higher education into the European education space; by now, the system of academic degrees has been modified (instead of the Soviet degrees “Specialist” and “Candidate of Sciences,” European-style degrees – “Bachelor,” “Master,” and “Doctor of Philosophy (Ph.D.)” – have been introduced, although the highest degree of “Doctor of Sciences” has been retained; Ukraine began a tough struggle against plagiarism, changed the procedure for election of university presidents (rectors), and envisaged provisions for creation of an independent public body to supervise the quality of education etc. In the new Law of Ukraine “On Education” higher education is regulated by Article 17 as founded on the competency-based approach, and refines the goals of higher education as “a person’s

achievement of a high level of scientific and/or creative, artistic, professional and general competencies required for their work in a certain occupation or a certain field of knowledge” [5].

Presentation of the core material. The unity of education, science and innovation theory in the legislation is related to the field of higher education in Article 45 of the Law “On Education,” which describes scientific activity in the system of higher education that “includes performance of research work, and training of highly qualified scientific personnel, academic and teaching staff” [1]. Although the first national strategic document does not envisage a specific chapter for this topic, it mentions “integration of education and science, active use of scientific potential of institutions of higher education and research establishments, latest theoretical developments and achievements of innovative teachers or public creative associations in the education process” [2] among the main ways to reform education.

The law “On Education” defines that “research, scientific-technical and innovative activities of higher education institutions are an obligatory and integral part of their educational work” [5]. Besides, the law introduces a special term, “education for science” (Article 21), to denote “a kind of specialized education based on experiment-oriented learning and intended for in-depth study of vocation-related subjects and acquisition of competencies required for further research, experimental, design and inventive activity” [5].

Besides the laws on education, scientific (research) activity is regulated by the Law of Ukraine “On Research and Technical Activity.” The law defines legal, organizational and financial foundation for the work and development of research and technical activity, creates conditions for performance of such activity, and ensures satisfaction of demands of the society and the state for technological development by establishing

interaction between education, science, business and government [8]. An overview of education-related legislative acts and strategic documents of the first decade of Ukrainian independence demonstrates that within a relatively short period of time, the country managed to form a legal framework for national education free from the heritage of totalitarianism. Still, the “Osvita” program did not envisage specific mechanisms to implement the planned activities. Many of them were of merely declarative nature [9, P.18].

Development of education-related legislation was ensured by the specialized project entitled “The National Doctrine for Development of Education in Ukraine in the 21st Century” (2001-2002), ideologically based on human-centred philosophy which changed the role and status of education, its social significance and responsibility. Numerous bylaws introduced the system of external independent testing, the credit-modular system of organizing educational process and a rating-based system of continuous and final assessment, increased the autonomy of universities in development of curricula and ensuring individual choice of subjects for students; particular action was taken to improve academic mobility; a European-type Diploma Supplement was introduced [10], and the National Qualifications Framework was created [11] etc.

In parallel with that, progressive changes were taking place in other areas of education. For example, amendments were made to the Law of Ukraine “On Preschool Education” to introduce compulsory preschool education for children of older preschool age (over-fives) and stipulate the place of inclusive education at the legislative level [12, P.41].

At the same time, many tasks envisaged in the National Doctrine have never been turned into reality. This could be explained by political instability. In addition, consistency of reforms was hampered by the continued economic and environmental crisis, as well as by demographic

changes (falling birth rate, increasing migration, and the growing number of depopulated villages). At last, while analysing the recent laws on education approved after the 2014 Maidan events with mottoes calling for drastic changes, it is worth noting the fact that high expectations for cardinal renovation of national education are somewhat toned down by contestable nature of some of the suggested changes, and experts are sceptical as to the prospects of their implementation.

The long-awaited Law of Ukraine “On Higher Education” [13] is a document of strategic importance which promotes forming the basis for further development and investment into higher education to improve its quality, and finally, to cause constructive changes in motivation and behaviour of all participants of the educational space [14]. As to the New Ukrainian School project and the law “On Education,” it should be noted that the indisputable preference of these documents is the fact that they helped to draw attention of wide circles of society, and engage both education professionals and consumers of educational services into a productive dialogue. This situation results in creation of an integral system for ensuring quality of education, as envisaged by the draft law [15].

Expanded rights to education will be promoted by implementation of civil control and supervision in educational institutions of all levels, development of inclusive education, and recognition of both formal and informal education, with opportunities of conversion between the two. An important norm to guarantee proper maintenance and logistics for the national education is the rule that envisages allocation of funding for education at the minimal level of 7% of the country’s GDP [16, P.131].

In addition to the contestable nature of some provisions of the law and the scepticism concerning its implementation, we should point out the bottlenecks of this law. In particular, one of them is the provision about funding preschool and out-of-school education mostly from local budgets. A

budget analyst from the Association of Ukrainian Cities I. Onyshchuk is quite sceptical about the ability of local self-government bodies to fund educational institutions. He emphasizes that the amounts of educational and medical subvention from the state budget do not cover the minimal need for funding education and health services, even for protected budget items. "The educational subvention is not supposed to grow, even by a single percent, meanwhile a 25% increase in salaries for teaching staff is promised. Local budgets will be drained, if this approach persists" [17], the expert says.

The course of education reform in Ukraine occupies the attention of both Ukrainian society and the international community. It should be noted that the international community always had a mainly positive opinion of Ukrainian law-making in the field of education. However, only few comments on Ukrainian law-making in the field of education from representatives of the international community have been published until recently. For example, when assessing the contents of the National Doctrine for Development of Education, international experts expressed an opinion that the Doctrine meets the dictates of the time, complies with modern and prospective European and global education standards, and follows leading trends in their development [18].

On the contrary, the extraordinary attention of the international community to Ukrainian laws on education in September 2017 was caused by political rather than educational issues. Approval of the new framework Law of Ukraine "On Education" No. 2145-19 dated 5 September 2017 sparked active discussions in the information space of some foreign countries. However, it was not the entire law but one of its articles that received considerable attention: the provision that established the extent to which the official language should be introduced as the language of instruction in secondary school [17].

The norm for the language of the educational process, as set forth in Article 7 of the Law of Ukraine “On Education,” that reduced the scope of education delivered in languages of national minorities after completion of primary school caused negative reaction on the part of the international community. Admonitions against this norm were expressed by Hungary, Romania, Bulgaria, the Russian Federation and Moldova who saw it as violation of rights of corresponding national minorities in Ukraine. The considerable international resonance caused by the language-related article of the Law made Ukraine’s Ministry of Foreign Affairs appeal to the Venice Commission, which published its expert opinion on the compliance of this norm with the European approach to rights of national minorities on 8 December 2017. The decision of the Venice Commission binds Ukraine to introduce amendments to Article 7 and replace the provisions on teaching in the state language, languages of minorities and other languages with their more balanced versions [19]. At present, Ukraine expects approval of a new law “On Complete Secondary Education” which should refine the corresponding provisions.

Most experts justifiably feel that the issue of the language-related article is no longer an educational problem, but an entirely political one. Nevertheless, it is the political problem that attracted attention of the international community to the education reform in Ukraine. In particular, experts of the European Council have examined the issue in detail and given a positive assessment of Ukraine’s education reform. It is not surprising because ideas behind the Ukrainian reform are based on successful reforms in Finland, Sweden, Canada and Poland. Moreover, Ukraine paid particular attention to consulting international experts while developing the new Law of Ukraine “On Education.” For example, during the educational forum Ed Camp-2017 taking place in May 2017 in Kharkiv, international experts helped the participants realize that the problems faced

by Ukrainian educators are in no way unique. Loss of interest in school, tremendous amounts of information to be processed, and lack of practical skills are the things well known to teachers in many countries of the world [20]. During such events, advice was given on how to create a common space for interaction of pupils and teachers, how to allow oneself to try new things, experiment, and share the new knowledge, how to make teaching more interesting and exciting, how to train children for real life, and many other ideas. All of these were taken into consideration when developing the concept for the New Ukrainian School and the new law "On Education."

When the framework law on education was approved, international experts appreciated the fact that the new law had greatly expanded the people's rights to education, and provided new opportunities to education applicants, educators and educational institutions to enable development and improvement of their competitiveness. It is of special importance these days when we need to respond quickly to numerous challenges related to the reforms implemented in parallel in many other fields of life, to economic problems, new technologies, globalization of the educational space etc. In addition, the law contains a series of norms intended to ensure that applicants will enjoy territorial, financial and physical availability of education, which is envisaged in many international documents that Ukraine ratified decades ago but has never implemented into its legislation [15].

It should be noted, though, that the framework law does not specify how exactly education should be obtained and its level be improved, but it only outlines the main principles in the functioning of education. Now, specific laws such as "On Preschool Education," "On General Secondary Education," "On Out-of-School Education," "On Vocational Education," "On Higher Education" need to be approved in compliance with this law [19]. It suggests that the new law begins the process of forming a new regulatory

environment for Ukrainian education. The first and foremost requirement should be the norm of law to ensure its personality-focused orientation and compliance with the general tendencies of civilization development in the 21st century, treating every person as a personality; the second requirement is to ensure the democratic nature of the education system, its transparency and complete implementation of opportunities for free self-expression of every personality [21]. Therefore, the synthesizing category in modern regulatory environment of education should be the Ukrainian national idea of state-building as a basis for functioning and development of education that ensures free personal growth in accordance with the global trends, inner peculiarities of a personality and their mental characteristics [18, P.6-7].

Conclusions. This article reveals the constitutional foundations of Ukrainian education – universality, availability, equality and development – that are based on a person's right to free development of their personality, recognition of a person as the highest value, stem from the principle of people's sovereignty, and are reflected in the main laws and public documents that regulate it. It highlights several stages in evolution of ideological basis for development of the legislative process in the field of education, that can be followed by analysing the main public documents in the field of education – the state program “Osvita” (1993), the National Doctrine for Development of Education (2002), and the Concept of New Ukrainian School (2016). The first stage established the ideology to build the national education system as the most important element in formation of an educated, creative and spiritually developed personality. The second stage began modernization of the national education in line with European standards and principles. The third stage attempts to turn Ukrainian school into a lever of social equality and cohesion, economic development and competitiveness of Ukraine, and attempts to do so on the basis of studying

national experience of education and considering European educational traditions. Directions in development of legislation in the field of education are determined by its structural components: preschool education, complete secondary education, vocational education, higher education, science, upbringing etc. It has been established that development of each of the listed areas is covered in provisions of two framework laws on education, state programs and branch-specific laws that have been approved since Ukraine has proclaimed its independence. Analysis of the abovementioned sources facilitated exposure of certain advantages and contradictions, the consideration of which is an important precondition in forming a new regulatory environment for education. This being said, its synthesizing category should be the Ukrainian national idea of state-building that complies with the spirit, needs and goals of a democratic society, is focused on formation of an active, autonomous and independent personality who both feels and is perceived by the society as an independent value, and who is guided by peace-keeping as the main principle of the new world and the strategy for development of human civilization.

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