

Ukrainian Higher Education Law: Key Highlights and Relationships with Lithuanian Science and Study Policy

Roman Volodymyrovych Shapoval¹, Snieguolė Matulienė², Gabrielė Juodkaitė-Granskienė³

¹ Yaroslav Mudryi National Law University, Department of Administrative Law and Administrative Activities, Dynamivska St. 4, Kharkiv 61000, Ukraine, rvshapoval1@gmail.com

² Mykolas Romeris University, Faculty of Law, Institute of Criminal Law and Procedure, Ateities St. 20, LT-08303 Vilnius, Lithuania, m.sniega@mruni.eu

³ Vilnius University, Faculty of Law, Department of Criminal Justice, Saulėtekio Av. 9, LT-10222 Vilnius, Lithuania, gabriele.juodkaite@ltec.lt

Annotation. The article provides an overview of the Ukrainian Law on Higher Education – defined innovations, establishing a higher education organization, financing and quality assurance principles for the development of competitive human capital guidelines. The article compares these aspects between two countries, Lithuania and Ukraine, emphasizing research and studies in the sphere, giving some insight on these systems. Also authors discusses possible improvements, according to the two states existing best practices in higher education in different areas of Strategy.

Keywords: *higher education, legislation on higher education, science and study policy, higher education quality, higher education system.*

Introduction

Higher education is an integral part of the Europe 2020 strategy which states that it is “part and a key instrument for Europe to create a smart, sustainable and inclusive economy – it plays a crucial role in promoting personal development and social progress, impact on innovation and research and contributes to the development of high – skilled workers needed knowledge-based economic growth and social welfare” (Council conclusion, 2009).

“Reforms of higher education are influenced both directly and indirectly by global social, economical, cultural and demographical changes in the world and European countries. High schools open to innovations must react to the changes and challenges in their surrounding, as well as get involved into competition in the field of studies and scientific research. Contemporary trends in the process of education management in various countries and regions show that the higher education becomes crucial factor making huge influence on different regions of the world” (Žalėnienė, Bilevičiūtė, 2013).

The purpose of the study is to determine main principles of High education in Ukraine and Lithuania.

The objectives of the article are:

- to present high education organization and principles in new Law of Ukraine;
- to compare similarities and differences of strategies and organisation of education in Lithuania and Ukraine;
- to discuss their compliance to the Council conclusion on ET strategy 2020;
- to present best practices in both countries in the sphere.

Methods applied – comparative, analyses, systematization, logics and other general research methods.

The main changes in the Ukrainian science and education policy after the adoption of High Education Act

After a long discussion and a large amount of offers (only the second reading of the draft law the Supreme Rada Science and Education Committee was presented 959 amendments) in Ukraine, the Higher Education Act was passed in 2014 April 7. The Law of Ukraine “On Higher Education” is probably one of the most expected (more than 4 thousand offers were submitted) legal document in the field of education. Therefore, even its existence today could be considered very positively. And, in addition, there are many rational innovations included into it which will become a stable base for future positive developments of the system.

In Law there are many new terms and concepts defined. For example, there are new terms of the applicant of higher education and applicant’s attestation (it is necessary to clarify the requirements for the award of degrees, an explanation of the concept of “international peer-reviewed publication”, etc.), academic mobility and freedom (including the right of the Ukrainian universities to the final recognition of foreign diplomats and degrees, the introduction of full “guest” courses with participation of leading foreign specialists, free hiring of graduates and professors from the foreign universities), the European Credit Transfer and Accumulation System (ECTS) and its credit (60 credits are the equivalent of a full year of study or work; in a standard academic year, 60 credits are

usually broken down into several smaller components), a firm endowment of the higher educational institution, research university, etc.

In Law of Ukraine there is a separate section named “On Quality of Higher Education” that is dedicated to providing main quality principles consisting of systems of internal and external quality assurance and Quality Assurance System of the National Agency for Quality Assurance (more about it will be mentioned below). The list of authorities in the field of higher education and their powers are also expanded (but the powers of the National Academy of Sciences of Ukraine and the national branch academies of sciences in this area are not defined). Article 41 declares the creation of scientific societies of students (cadets, course participants), graduate students, doctoral students and young scientists, by the agreement with the societies the governing body of the higher educational establishment makes a decision on dismissal of people receiving Ph. D., from the higher educational establishment or restoring them to study there.

But the main thing in the Law is its fundamentally new provisions in education organisation - there are the levels (initial (short cycle), the first one (Bachelor), the second one (Master), the third one (educational and research, scientific), and the educational degrees (Bachelor Jr., BA, MA, PhD, Doctor of Science) introduced. It should be noted that during a certain transitional period of the Law the level of junior specialist was removed from the higher educational system as well as the degree of Candidate of Sciences. Unfortunately, the concept of “the national system of higher education in Ukraine” is not fully and systematically disclosed in the law, nevertheless they can be defined from different articles, for example Article 7 describes documentation of higher education’s (scientific levels) and further they are detailed in issues on the National Qualifications Framework (including the criteria for the National Qualifications Framework, as they are a necessary component in determining the levels of education, and hence – a condition for licensing and accreditation).

The Law expands the autonomy of universities. It guarantees the financial autonomy – removes some duties and taxes, legalize a firm endowment and allows revenue management not through the treasury system. The state universities will be able to place their own income from their educational, scientific, educational and productive activities in the accounts of institutions of state-owned banks. However, financial autonomy does not mean lack of control over expenses. In particular, the Law requires the administration to publish approved budgets and projects, information about the property, data on the distribution of wages and other documents on the sites of the institution. In addition, only a general meeting of the staff of the university is authorized to issue permission to transfer property to the other side.

The Law introduces the new separate collegiate body – the National Agency for Quality Assurance in Higher Education. Previously the analogue institution was the Higher Accreditation Commission (HAC), and afterwards – the State Accreditation Commission (SAC). The new body gets very broad powers, for the successful implementation of

which 25 members of the agency, the Secretariat (Regulations on it and its staff schedule is approved by the National Agency) and branch expert councils composed of 9 to 15 members are introduced. Since the members of the National Agency and branch expert councils during the execution of their duties may be exempted from the performance of their professional duties at their main place of work completely or partially on full pay, some concern is caused by the ability to perform these duties qualitatively in 803 higher educational institutions of I–IV levels of accreditation (the network-2014 according to the data from the Ministry of Education and Science of Ukraine).

Ambiguous thoughts are connected with the creation of a new mechanism of Rector Elections (withdrawal, exemption) in higher educational institutions. The rectors will be elected (still there is a hope for an objective, impartial and conscious process) in the general, secret and direct election of all employees of the university (the total number (a complete composition) of scientific, pedagogical and teaching staff of higher educational institution should be at least 75 %), while the number of students taking part in the vote will increase significantly (at least 15 %). The same person cannot be the head of the relevant higher educational institution for more than two terms of five years. The procedure for withdrawal from the post of the rector is simplified. After the retirement from the post of the head of the higher educational institution a person who has worked in this position for at least 10 consecutive years may be appointed an advisor of the head of the higher educational institution (instead of the existing position of the honorary rector). The requirements to the head of the faculty (of the Educational and Research Institute) or the department to the existing presence of the scientific degree and / or an academic (honorary) rank have begun to include the phrase “in accordance to the profile of the faculty (of the Educational and Research Institute)”.

Anti-plagiarism rules and the responsibility for them (Obligatory disclosure of scientific works) are strengthened. By the way, as a part of the National Agency for Quality Assurance in Higher Education, the Committee on Ethics will be created and it will consider issues of academic plagiarism and make appropriate representations to the National Agency.

All higher educational institutions will have the right to the final award of academic degrees (to the competence of the National Agency the question of accreditation of special councils and appeals on their decisions are still included). In fact, as it was previously, the defence of the thesis will take place at the meeting of the special council. The formation of the composition of the special council will be performed by the National Agency for Quality Assurance in Higher Education. However, the decision to award academic degrees won't be taken by the Ministry. It will be taken by the educational institution. Postgraduate Studies will turn into a full-fledged structured PhD-programme according to the western model, and universities can create single specialized scientific councils for the defence of the thesis.

Since 2016 a new mechanism for the electronic admission to universities will be introduced as well as the automatic placement of places of the state order. The procedure for calculating the competitive points has been also changed (as the sum of the points for each certificate, the average point of the document of complete secondary education, the point for a competition of creative and physical skills (if held), multiplied by weighting coefficients set by the Rules of Admission to the Higher Educational Institutions). The sum of coefficients is equal to one. If we assume that the higher education institution sets the average point of the document of complete secondary education 0%, it turns out that the achievements at school (excluding selected subjects for External Independent Evaluation or External Independent Testing (EIT, external testing, ET), the number of which can differ), level of education and compulsory secondary education are the things nobody cares of. We can also add the ability to make up 0 % by weight of points for special achievements (winners of the IV stage of the All-Ukrainian Student Subject Olympiads, winners of the III stage of the All-Ukrainian Research Paper Defence Competition among the Minor Academy of Sciences Students-Members). The provisions, according to which the admission on the basis of associate degree when applying for related specialty for a bachelor's degree is held on the results of entrance examinations, also raise certain questions.

The Law reduced the number of hours of the academic load from 900 hours to 600 hours, and the provision on the maximum load is annulled. The load on students is also reduced: from 36 to 30 hours per credit. The number of academic disciplines is less, and the students choose at least 25 % of courses. Thus applicants for a certain level of higher education have the right to choose academic disciplines which are offered at other levels of higher education.

The Law has liquidated levels of the accreditation of the higher educational institutions, the list of types of the higher educational institutions is reduced (conservatory, musical academy, technical school are removed, a new order of obtaining the status of national by the higher educational institution is established (their rights are considerably expanded), issues of the research institution are settled, such structural units of the higher educational institution as division and subject (cyclic) commission are withdrawn, (though the existence of "other divisions which activities aren't forbidden by the law" is provided), a special educational and rehabilitation division with the purpose of the organization of inclusive educational process and special educational and rehabilitation escort of applicants for the higher education with special educational needs is created. Scientific and Methodological Council is being formed. Its task is to develop methodology, methodological recommendations on the development of standards of educational activities and standards of the higher education with the assistance of the National Agency for Quality Assurance in Higher Education. The scientific and methodological commissions which develop standards of educational activities and standards of the higher education are also formed.

Of course, a new document should be tested in practice, but some questions about the documents on higher education have already arisen (“own documents on the higher education without accreditation educational program”; “the double diploma in two specialties”; the possibility of using them during the employment because of a covert competition of diplomas, particularly regarding benefits of the education document of the state sample; the compliance of these provisions to other regulating documents); concerning the relations of the higher school and church (peculiarities of creating and functioning of the theological higher educational institutions in the context of the separation of the education from the church according to Art. 35 of the Constitution of Ukraine, Art. 6 of the Law of Ukraine “On Education”, Art. 3 and 32 of the new Law of Ukraine “On Higher Education”; the possibility of teaching religious disciplines in the higher educational institutions; the foundation of the higher educational institutions by the religious organizations); concerning the employment of graduates of the higher educational institutions; foresight of the quota of the elected representatives in the Academic Councils of the higher educational institutions only from the students (cadets) and the representation of these people in the bodies of public and students government (in fact, the possibility to include post-graduate students, doctoral students, assistants, trainees, interns, medical residents (medical residents – people who also study in the higher educational institutions according to Art. 61 – into their structure is excluded); as for the independent organizations of evaluation and quality assurance of higher education (if according to Art. 23 “the participation of the higher educational institution in conducting the evaluation procedure of the educational programme by the independent organization of evaluation and quality assurance of higher education is voluntary”, the existence of such organizations is doubtful; besides, according to the Art. 18 the National Agency possesses the right of the accreditation of educational programmes, and the Art. 25 establishes the procedure of accreditation, but such independent organizations of evaluation aren’t mentioned there as well as “own certificates on the evaluation of the educational programme and / or systems of quality assurance of higher education”); about activities of the Certification Board (Art. 13,54), etc.

We want to emphasize that our purpose was to make short introduction of the Law, emphasizing its main benefits and weaknesses. Overall effectiveness will be disclosed only over time and on the basis of obtained results. But, unfortunately, in our opinion, the main problem of many administrative decisions is in the impossibility to pursue the case for various reasons (and it doesn’t matter what duration of the management cycle is). The Law of Ukraine “On Higher Education” has come into force since September 6, 2014 (it has only three periods of the reforming implementation: September, 2014, September, 2015, January 1, 2016) and therefore for obtaining even its first results it’s necessary to wait for at least one more year. Everything is going to be ahead.

Ukraine’s Education and Science Minister Serhiy Kvit noted: *“This law is first of all an instrument that should be used by the universities to really become independent in*

financial, academic and organizational way. The academic community needs to take the responsibility in their hands, the rest we will overcome” (Serhiy Kvit, 2015).

Insights on the Ukrainian and Lithuanian higher education policy

The presentation of Ukraine policies in science and education revealed some similarities to Lithuanian system.

One of the goals of Lithuanian Law on Science and Studies was to restructure the higher education funding in relation to the choice of the consumer – oriented public financial resources to support the best (quality assurance in higher education social availability) to guarantee the public and the private sector in providing equal rights and genuine autonomy for higher education institutions. Ukraine also performed considerable attention in the Law on Higher Education to the principles of financing of higher education. However, until now these rules relating to the financial autonomy of higher education institutions, has remained only as protocol of intentions. Funding of studies in high schools of Lithuania follows the principle “money follows a student” – budget goes to programs that selects the most number of the entrants. State funded students and study programs of universities and colleges are competing with each other on several areas of study groups. State funding in Lithuania is available to both study forms – permanent and part time. If students are not satisfied with the quality or condition of study, after the successful completion of semester exams the student can transfer his/her “study basket” in the same study field to the same or another institution of higher education or terminate his/her studies without financial implications. Meanwhile, the Ukrainian state – funded places are designated specifically for higher education institutions. The latter keeps the place, even if the student terminates studies. Ukraine student cannot overpass into another program in the same field, if the program is implemented by another university. The transition is possible only if there is a vacant state-funded place. In other words, state funded place is associated with higher school, not with the student. Such mechanism, in our opinion, hinders student mobility and the competitiveness of the Ukrainian high schools.

Both countries’ laws regulating higher education, lack clear legal regulation on state funding places planning in different levels – by programs, by fields, etc. In Ukraine until 2016 September private college cannot ask for state-funded places. In the near future the Ukrainian Ministry of Education must approve the list of high schools according to their profiles, which will be eligible for state-funded places. In Lithuania it is in the discussion. In our opinion regulation in law defining said mechanisms would be more efficient and create the necessary prerequisites to purify the individual high schools profiles. This would promote greater cooperation among higher education institutions considering a certain consortia, as well as the development of joint programs and so on.

In Lithuania there are some discussions on making the bar of entry points for higher education. One school of higher education of Lithuania has already set such poles; others are actively discussing whether they should be set in their practices. Ukrainian higher education policy regulating law also does not set a minimum acceptance score. In our view, the legislation defining mandatory minimum standards (including points) for all entrants to higher education system are most welcome. However, it is necessary to provide that each institution has the right to set a higher competitive score used with regard to the degree programs established or acquired learning outcomes and competencies.

Ukrainian Law on Higher Education lays down the regulation that every student has the opportunity to choose 25 percent of courses. Lithuanian Law on science and study does not give such an opportunity. However, it is worth to analyse Ukraine's experience and allow students studying in Lithuania, according to labour market changes and to improve employability, acquired in a contribution to the knowledge, skills and competency modelling portfolio. To date the majority of Lithuanian higher education provides propose a certain amount of alternative or optional subjects, but there are no normative acts in establishing the obligatory provision for these things to be implemented into the program. The analysis of students' opinion on the quality of programs' content show their dissatisfaction with the situation to choose only few courses and they express intention to study more optional courses. Therefore, we suggest reviewing the contents of existing programs for their adaptation for the students' choice and possibility to model their own studies.

The analysis of the scientific studies and strategic policy directions shows that all higher education institutions have to ensure proper education and education quality policy. In order to successfully compete in the higher education market, it is important to ensure and improve the quality of education. This issue is particularly significant for both – high school and for education policy authorities and responsible institutions. One of the goals is the academic integrity of the enforcement of study, research and service activities. Lithuanian higher education institutions are not tolerated in any form of academic dishonesty (tampering, fraud, bias, theft, plagiarism, bribery, work purchase and sale of other authors' presentation as your own, unsupported Co-authorship, cheating during exams and other unfair behaviour). In Lithuania a lot of attention is paid on this. The obvious proof is the existence of academic ethics and procedural supervisor Institute (hereafter – Ombudsmen), which is defined by the Law on Science and Studies of the Republic of Lithuania. The main function of the Ombudsman – hearing of complaints and initiation of investigations of possible breaches of academic ethics and procedures, while ensuring compliance of all study and science activities to academic ethics policies and procedures. High schools also take appropriate measures to prevent violations of academic integrity, ex. the creation of inter-university antiplagiarism verification system of final works. The University has the obligation to inspect all the works prepared for the defense. Also, universities approve procedures for the investigation of violations of

academic integrity. Universities are very strict in the dishonesty cases. For example, in cheating case in study process, the student may be expelled from the university without the right to enter university from 1 to 3 years. Ukraine also constantly question and discuss the principle of academic integrity assurance, as one of the study quality criteria. But now in Ukraine there is no self-created Institute, which may examine not only those situations (of academic ethics and procedural irregularities, the examination carried out by the Ministry of Education), but also coordinate academic ethics enforcement policy at the state level.

Conclusions

1. Higher education policy is an integral part of the worldwide globalization process. Higher education has long been recognized as a tool to improve and raise the level of human capital, but it becomes a part of the system of national innovation and can contribute to national social, economic progress. In the context of globalization, countries have to exchange their best practices in the implementation of science and higher education policy. Lately, a lot of new developments take place in most countries, as was shown by Ukrainian and Lithuanian example. Such a situation requires a definite decision at the highest state level, giving a right to make decisions for higher education, the promotion and maintenance of their autonomy.

2. The short analyses of new Law on Education of the Republic of Ukraine revealed many rational innovations included into it which will become a stable base for future positive developments of the system. In Law there are many new terms, principles and concepts define, including new terms of the applicant of higher education and applicant's attestation, principles of academic mobility and freedom, the European Credit Transfer and Accumulation System (ECTS), etc. A lot of attention is given to quality requirements as well as for fundamentally new provisions in education organisation – there are the levels (initial (short cycle), the first one (Bachelor), the second one (Master), the third one (educational and research, scientific), and the educational degrees (Bachelor Jr., BA, MA, PhD, Doctor of Science) introduced in the Law. Overall effectiveness will be disclosed only over time and on the basis of obtained results.

3. Best practices in Ukraine in authors' opinion are the possibility to built for the student his/her study programe in most suitable for him/her way - student can choose 25 percent of the disciplines. In Lithuania there are no such broad possibilities. On the other hand the quality assurance system is more developed in Lithuania. Also comparative analyses of Financing system of education in both countries reveals main benefits and weaknesses.

4. The analyses indicates, that main principles of European education strategy 2020 are implemented in both countries in more or less formal way.

References

- Constitution of Ukraine*. (2004). Retrieved November 14, 2015 from: file:///C:/Users/Admin/Downloads/Ukraine_Constitution_am2014_en.pdf.
- Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training* ('ET 2020'), 2009/C 119/02. Retrieved November 10, 2015 from [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52009XG0528\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52009XG0528(01)).
- Law on Science and Studies of The Republic of Lithuania*. (2009). Retrieved November 20, 2015 from: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=343430&p_query=&p_tr2=.
- Serhiy, K. (2015). The Law "On Higher Education" is adopted, next are the laws "On Education" and "On sciences and research-and-development activities". *Ukraine Crisis. Media center*. Retrieved December 3, 2015 from <http://uacrisis.org/8971-sergij-kvit-2>.
- Žalėnienė, I., Bilevičiūtė, E. (2013). Higher Education Reform in Lithuania with Emphasis on Lithuanian Educational Strategy. *European Scientific Journal edition*, 9 (19), 123–148.
- Закон України про вищу освіту. (2014). Retrieved October 29, 2015 from <http://zakon4.rada.gov.ua/laws/show/1556-18>.
- Закон України про освіту. (1991). Retrieved November 4, 2015 from <http://zakon5.rada.gov.ua/laws/show/1060-12>.
- Наказ міністерство освіти і науки України про затвердження Умов прийому на навчання до вищих навчальних закладів України в 2016 році. (2015). Retrieved November 6, 2015 from http://ru.osvita.ua/legislation/Vishya_osvita/9990/.

Ukrainos aukštojo mokslo įstatymas: pagrindiniai principai ir santykis su Lietuvos mokslo ir studijų politika

Roman Volodymyrovych Shapoval¹, Snieguolė Matulienė², Gabrielė Juodkaitė-Granskienė³

¹ Jaroslavo Išmintingojo nacionalinis teisės universitetas, Administracinės teisės ir administracinės veiklos katedra, Dynamovskaja g. 4, 61000 Charkovas, Ukraina, rvshapoval1@gmail.com

² Mykolo Romerio universitetas, Teisės fakultetas, Baudžiamosios teisės ir proceso institutas, Ateities g. 20, 08303 Vilnius, m.sniega@mrni.eu

³ Vilniaus universitetas, Teisės fakultetas, Baudžiamosios justicijos katedra, Saulėtekio al. 9, 10222 Vilnius, gabriele.juodkaite@ltec.lt

Anotacija

Aukštasis mokslas yra neatskiriama strategijos „Europa 2020“ dalis ir pagrindinė priemonė, siekiant Europoje sukurti pažangią, tvarią ir integracinę visuomenę bei ekonomiką, jis atlieka lemiamą vaidmenį skatinant asmeninę raidą ir visuomenės pažangą, daro poveikį inovacijoms

bei moksliniams tyrimams ir padeda rengti aukštos kvalifikacijos darbuotojus, kurių reikia žiniomis grindžiamos ekonomikos augimui ir visuomenės gerovei užtikrinti.

Aukštojo mokslo politika valstybėse yra neatsiejama nuo pasaulinės globalizacijos procesų. Aukštasis mokslas jau senai yra pripažįstamas kaip priemonė siekiant gerinti ir kelti žmogiškąjį kapitalo lygį, tačiau jis tampa ir nacionalinių inovacijų sistemų dalimi ir gali prisidėti prie valstybių ekonominės pažangos.

Straipsnyje analizuojamos Ukrainos aukštojo mokslo įstatyme įtvirtintos naujovės, nustatančios aukštojo mokslo organizavimo, finansavimo ir kokybės užtikrinimo principus, konkurencingo žmogiškojo kapitalo rengimo gaires. Yra lyginamos dviejų valstybių, Lietuvos ir Ukrainos, mokslo ir studijų sistemos, pateikiamos tam tikros išvalgos dėl šių sistemų tobulinimo gairių, atsižvelgiant į abiejų valstybių esamą gerąją patirtį atskirose aukštojo mokslo strategijos įgyvendinimo srityse.

Apibendrinant nustatyta, kad globalizacijos procesų kontekste, valstybės turi keistis gerąja patirtimi įgyvendinant mokslo ir studijų politiką savose valstybėse. Pastaruoju metu labai daug kalbama tiek Ukrainoje, tiek Lietuvoje apie aukštojo mokslo problemas. Šios susidariusios situacijos reikalauja ryžtingų sprendimų aukščiausiu valstybiniu lygiu, suteikiant tam tikrą teisę sprendimus priimti aukštosioms mokykloms, tuo skatinant ir palaikant jų autonomiškumą.

Esminiai žodžiai: *aukštasis mokslas, aukštojo mokslo teisinis reguliavimas, mokslo ir studijų politika, aukštojo mokslo kokybė, aukštojo mokslo sistema.*

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