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## **LEGAL RELATIONS BETWEEN THE SUBJECTS OF EDUCATIONAL SERVICES IN SOME OF EAST-EUROPEAN COUNTRIES**

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***Abstract.** The purpose of the research was to analyze legal relations between the subjects of educational services in some of East-European countries.*

*The study was carried out since January 2016 till October 2018. The following research methods were used in the work:*

- empirical methods (the study of normative legal acts and scientific-methodological literature; content analysis of scientific sources and standards for higher professional education; monitoring of publications);
- methods of theoretical analysis (comparative and retrospective one; specification and generalization; classification; induction and deduction);
- mathematical and graphical methods for data analysis of research.

*The results have a very important scientific significance. As the study shows, in Eastern European countries there is a variety of options to the definition of "educational services" and the rights of consumer. Students at universities in Eastern Europe can be divided into two groups:*

- subjects of educational services,
- non-subjects of educational services.

*The results have a very important practical significance. The definition of "educational services" is applied only in parts of Eastern European countries. Consequently, in another part of the countries of Eastern Europe, the "educational services" can neither be provided nor received. Since it does not exist in the legal field. The expansion of the number of countries will not give us a qualitatively new result.*

***Keywords:** educational services, legal relations, paid educational services, educational product, customer, customer orientation.*

### **Introduction**

The development needs of theoretical and methodological foundations of educational services management is due to a number of factors.

At the end of the 20<sup>th</sup> century, humanity was faced with a global problem of shortage of skilled personnel. The problem was exacerbated by the transition of the international community to a new qualitative state - the "information" society. The professional training received by the specialists was not enough to work with modern information technologies and social networks.

In order to determine the main directions of research in the field of higher education, the content analysis of 100 publications was performed between 2001 and 2016, which are most related to the topic of "The Challenges of Higher Education". The publications have been studied in journals, indexed in the databases SCOPUS and Web of Science. Further monitoring on this topic was carried out between 2017 and 2018.

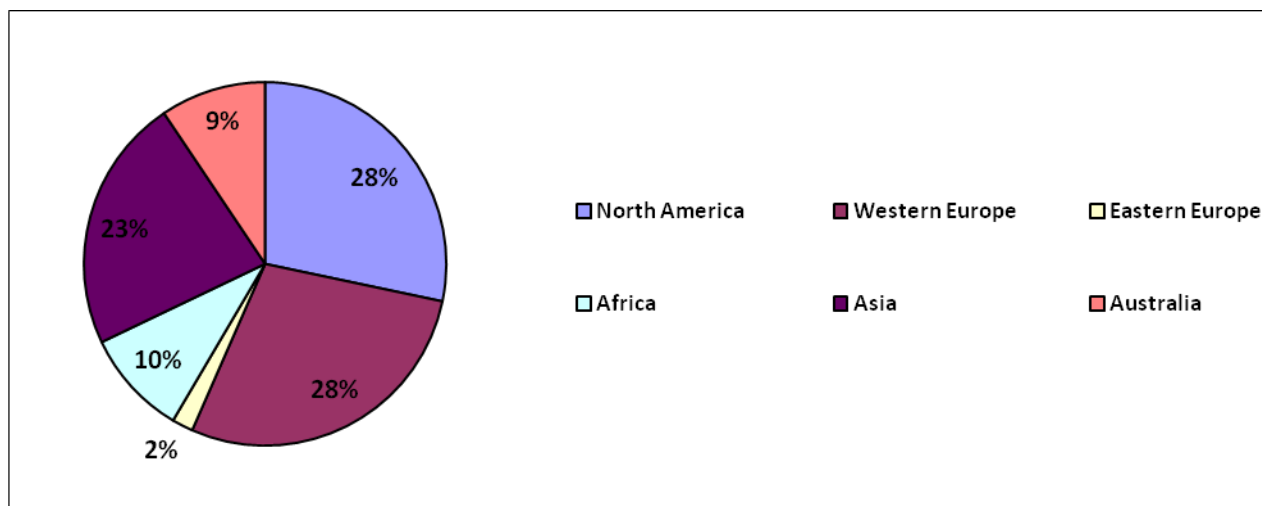
The purpose of the content analysis was to identify centers of research activity in higher education challenges. From the list of one hundred most relevant publications, 53 publications were selected that are related to various aspects of the current study, for example, articles[1; 2; 3; 4; 5; 6; 7; 8; 9], etc.

The publications have been studied in following journals: Active Learning in Higher Education, Adult Education Quarterly, AERA Open, American Behavioral Scientist, American Educational Research Journal, Arts and Humanities in Higher Education, Australian Journal of Education, Christian Education Journal, Contemporary Education Dialogue, Educational Management Administration & Leadership, Economic Development Quarterly, Educational and Psychological Measurement, Educational Policy, Educational Researcher, European Educational Research Journal, Journal of Experiential Education, Journal of Hispanic Higher Education, Journal of Studies in International Education, Journal of Transformative Education, Higher Education for the Future, Industry and Higher Education, Management in Education, Power and Education, Social Change, Sociology, Sociology of Education, Research in Education, Review of Educational Research, etc.

These 53 publications were divided into groups according to the geographical regions in which the authors of the articles carried out the researches. The general results of the content analysis are presented in Fig. 1.

Fig. 1 shows a diagram that contains the distribution of relevant publications by geographical regions (without South America). Scientists from countries of South America do not carry out world-class research.

Data of Fig. 1 confirm that the centers of activity in research on higher education challenges are located in the USA, Great Britain and India. The research percentage on higher education challenges in countries of Eastern Europe is about 2.0%.



Source: The results of own calculations.

Fig. 1. The distribution of relevant publications on higher education challenges by geographical regions (without South America), %

Data of Fig. 1 indicate low scientific activity in relation to the Eastern European segment of higher education.

The formation and development of the educational services market is a complex process. Awareness of education as a service and its entry into the market implies the inclusion of market levers, including legal relations between the subjects of educational services.

### Methodology

The study was carried out since January 2016 till October 2018. The practical part of the study was focused regionally, in East Europe. From a theoretical point of view, I relied on studies carried out in different countries before that.

The purpose of the research is to analyze legal relations between the subjects of educational services in some of East-European countries.

The object of the research is educational services in East-European countries.

The subject of the research is legal relations between the subjects of educational services in East-European countries.

The following research methods were used in the work:

- empirical methods (the study of normative legal acts and scientific-methodological literature; content analysis of scientific sources and standards for higher professional education; monitoring of publications);
- methods of theoretical analysis (comparative and retrospective one; specification and generalization; classification; induction and deduction);
- mathematical and graphical methods for data analysis of research.

The study was performed in two stages:

- literature review,
- information research.

At the first stage, the description of the state of research in this field was made. More than 100 scientific sources were studied, including those published in the journals: European Journal of Contemporary Education, European Journal of Higher Education, Higher Education, Higher Education in Europe, Higher Education Pedagogies, International Journal for Academic Development, Journal of Higher Education Policy and Management, Journal of Marketing for Higher Education, Polish Journal of Management Studies, Research in Higher Education, Studies in Higher Education, etc. The publications that are the closest to the topic of the study were selected for a thorough analysis later. So the literature review includes about 30 publications in journals indexed in databases WoS and SCOPUS. After the information research the aim of the research was formulated.

At the second stage, it was the study of normative legal acts and scientific-methodological literature and standards for higher professional education. The monitoring of publications was also.

And, at last, after discussion of the received results, I have made the conclusion.

## **Results**

Under market conditions, the essence of the relationship between a citizen and the state changes. Education becomes the sphere of educational services[10], and the citizen-taxpayer receives the rights of consumers and requires improving the quality of services provided, taking into account the needs of consumers.

The provision and receipt of educational services in universities should be carried out on the basis of current legislation. There are several important differences in the legislative practice of the countries of Western and Eastern Europe[11]. For example, in the countries of Western Europe, a system of Bachelor's and Master's degree programmes has long been adopted. In addition, according to the results of the cumulative rating after the first two years of study at the university, a significant part of less successful students (including those without unsatisfactory grades) is often deducted. In the post-Soviet countries, such approaches take root with great difficulty. The legislation and social psychology consider bachelors full-fledged specialists yet not in all Eastern European countries[12].

The conditions for the provision and receipt of higher education educational services in some Eastern European countries will be discussed below. As a first step, we consider the countries that were previously part of the USSR. After that, we will get acquainted with the conditions of providing and receiving educational services in the countries of Eastern Europe, which were formally independent of the USSR.

### **Azerbaijan**

In order to compare the conditions of the provision of educational services in different cultures, the research analyzed the current legislation in Azerbaijan. This country, like Belarus, Russia and Ukraine, was previously part of the USSR.

The main document regulating educational activities is the Law "On Education". The definition of "educational services" in the named Law is absent.

In Art. 1, the definition of "educational product" is shown: [13] innovations in the field of education, original educational and subject programs, systems of teaching methods, educational modules, educational projects. According to this definition, the legislation of Azerbaijan is

focused on "educational franchising". It is a system of complex services for the implementation of educational products ... in the domestic or international educational market.

The main goal of education[14] shows the passive role of the student. Therefore, he cannot be considered a subject of educational activity.

Belarus

In the Code of the Republic of Belarus "On Education" there is no definition of "educational service"[15]. In Art. 31 "Fundamental Rights of Students", it is mentioned about the right to "receive paid services in the field of education." Additionally, in Art. 77 "Agreement on paid services in the field of education", it is about the duration of training and cost of education. However, the definition itself is not disclosed in the above document.

However, the right of citizens of the Republic of Belarus to education is ensured by the "creation of conditions for education, taking into account national traditions, as well as individual needs, abilities and needs of students"[16]. From this legal norm it follows that the student is the subject of educational activities and may affect the quality of the educational services received. Therefore, the student can be considered the subject of educational services.

Russia

Probably, Russia can be considered the trendsetter in the development of educational services in Eastern Europe. This country is the largest country in Eastern Europe. Also, it is officially the successor of the USSR. Together with international rights and obligations, Russia adopted a part of the traditions that were laid down in the communist ideology. This, of course, is reflected in the system of higher education in Russia.

First of all, we note that neither in the Law "On Education in the Russian Federation" nor in other regulatory legal acts regulating educational activity, there is no official definition of educational services[17]. In Art. 54. The "Education Agreement" of the Federal Law of December 29, 2012 "On Education in the Russian Federation"[18] states the provision of paid educational services. However, the term "Educational services" is absent in the aforementioned Law. At the same time, according to the aforementioned Law, the Rules for the provision of paid educational services are approved by the Government of the Russian Federation. The government document[19] spells out the following definitions:

- "customer" is an individual and (or) a legal entity intending to order or ordering paid educational services for itself or other persons on the basis of an agreement;
- "student" is an individual mastering the educational program;
- "provider" is an organization that carries out educational activities and provides paid educational services to the student (the organization engaged in educational activities is equated with individual entrepreneurs engaged in educational activities);
- "paid educational services" is the implementation of educational activities on assignments and at the expense of individuals and (or) legal entities under educational agreements concluded during admission to study (hereinafter - the agreement).

Here we can see the following features of the provision of educational services in the largest country in Eastern Europe:

1. Within the legal framework, there are only "paid educational services." Educational services, as the implementation of educational activities at the expense of budget funds, are absent within the legal framework.

That means, part of the educational activity, which is carried out at the expense of budget funds, is not an educational service. Consequently, it has no subjects of educational services in the face of the teaching staff and the consumer.

Here we can see the manifestation of group "A" of the definitions "educational services" (the consumer is a passive object).

2. There is no definition of "consumer of educational services." The definitions "customer" and "student" have different interpretations. Moreover, the first one has a wider interpretation.

3. Subjects of paid educational services are:

- "provider", as an organization engaged in educational activities and providing paid educational services (excluding teaching staff),
- "student" as an individual mastering an educational program.

However, we can see that the "student" only "masters the educational program." Legally, the "student" cannot constitute a "task" for the "provider" and cannot influence the quality of the paid educational services provided. Therefore, it cannot be considered a subject of educational activity.

4. All conditions for the provision of "paid educational services" are determined on the basis of an agreement on education concluded at the time of admission to study. In essence, the conditions for the provision of "paid educational services" are determined by the "provider" and "customer" without the participation of the "student". In this case, the "student" is, once again, excluded from the number of subjects of educational activities and cannot influence the quality of paid educational services provided. Therefore, he cannot be considered a subject of educational activity.

#### Ukraine

A very interesting situation is observed in Ukraine. The new Law "On Education" provides for the definition of "educational service". In Art. 1 "Basic terms and their definitions"[20], the following definition is given: "educational service is a complex of actions of a subject of educational activity determined by the legislation, educational program and/or contract, and aimed at achieving the expected learning outcomes by an applicant".

Here we can see three sources of educational services: the state, the educational program and the agreement. In addition, the definition of "educational services" is associated with the expected learning outcomes. That is, the interests of the applicant are taken into account. Therefore, the applicant can be considered the subject of educational services.

Next, we proceed to consider the conditions for the provision and receipt of educational services in some countries of Eastern Europe, which were formally independent of the Soviet Union.

#### Croatia

In Croatia, there are several Laws governing educational activities[21; 22; 23]. For example, the Croatian Law on higher education does not have the definition of "educational services". Art. 90 enshrines the student's rights to:

- the freedom of thought and personal views that are related to the content of training during the implementation of the educational process;
- performance evaluation of academic staff.

The following Law grants the student similar rights.

We can see that the student is allowed to think independently and have a personal opinion. He can even evaluate the work of teaching staff. However, he cannot claim to meet his educational needs. In other words, the student is not the subject of educational services.

And only Art. 2 of the Law "On Adult Education"[24] speaks about adult education on the principles: ..., "freedom and independence in choosing the ways, content, forms, resources and method", ... In this case, there is an opportunity to be a full subject of educational services.

#### Czech Republic

There is no definition of an "educational services" in Czech law[25]. The student, as a subject of educational services, is not considered.

#### Poland

In the Law of the Republic of Poland "On Higher Education"[26], the interpretation of the definition of "educational services" is absent. In Art. 99 and Art. 160, the definition of "educational services" in relation to certain types of paid services in higher education is used. In Art. 160, it is stated that the rights and obligations of a student are described by the Training Regulations. In more detail the rights of students are given in Art. 171-188a. However, it is more concerned with organizational and social issues. For example, these are providing scholarships, dormitories, textbooks. The student is not considered as a subject of educational services.

From the viewpoint of the author, the excessive attention is paid to accreditation and control in the Law. This may indicate a weak influence on the educational services market by consumers.

The new draft law[27] regulating educational activities in higher education declares that the mission of the higher education system is to ensure the highest quality of education, the formation of citizenship, as well as participation in social development and the formation of an economy based on innovation. The third section of the draft law describes the rights of students. However, they are again not associated with the consumption of educational services. The system of higher education and science "works in compliance with international standards, ..." (Art. 3). Based on this, we can assume that Polish higher education will soon meet international standards.

#### Serbia

In the Law on Higher Education, the definition of "educational services" [28] is used in §11, Art. 4. Principles of higher education. It says that the activity of higher education is based on the following principles: approval of competition of educational and research services, in order to increase the quality and efficiency of the higher system. However, there is no explanation of what this definition means. The Law is dominated by the curriculum that students need to apply and develop professional knowledge and skills. A plus for Serbian students is that they imply the participation of students in management and decision-making, especially in connection with issues that matter for the quality of education.

In the Law, from the point of view of the author, excessive attention is paid to the process of accreditation and control. This may indicate a weak influence on the educational services market by consumers. That is, students have the opportunity to actively participate in the management of the educational system. However, they are not considered as subjects of educational services.

#### Discussion

We reviewed the legal relations between the subjects of educational services in several countries of Eastern Europe. In some countries there is a definition of "educational service". In other countries there is no such definition. In some countries, students are subjects of educational services, that is, consumers. In other countries, students are not the subjects of educational services (hereinafter, consumers).

Considering conditions in all countries does not make sense. The increase in the number of countries will not make it possible to obtain a qualitatively new knowledge in this matter.

Therefore, we will next turn to international standards as external regulators of attitudes towards educational services in the countries of Eastern Europe.

On September 15, 2015, the ISO 9001: 2015 standard was officially published. This standard is one of the three fundamental standards developed by ISO / TS 176 Technical Committee of the International Organization of Standardization. Its purpose is to meet the needs of the customer/buyer of goods or services. The standards of the ISO 9000 series, adopted by more than 190 countries of the world as national, are applicable to any enterprises, regardless of their size, ownership or sphere of activity.

The ISO 9001:2015[29] standard is based on the principles of quality management. The first principle is a customer orientation (Art. 2).

In most of the examples discussed above, national laws do not comply with this principle of ISO 9001:2015 (customer orientation). In most of the examples discussed above, students are not considered as consumers of educational services. This suggests that the conditions for the provision and receipt of educational services in the countries of Eastern Europe must be changed. Namely, national laws, primarily, should become consumer-oriented educational services.

#### Conclusion

The results have a very important scientific and practical significance.

1. The legal relations between the subjects of educational services in some countries of

Eastern Europe are considered. I got the overall qualitative picture. The expansion of the number of countries will not give us a qualitatively new result.

2. In Eastern European countries there is a variety of options with respect to the definition of "educational services" and the rights of its consumer. The definition of "educational services" is applied only in parts of Eastern European countries. Consequently, in another part of the countries of Eastern Europe, the "educational services" can neither be provided nor received. Since it does not exist in the legal field.

3. Students at universities in Eastern Europe can be divided into two groups:

- subjects of educational services,
- non-subjects of educational services.

In general, the legal conditions for the provision and receipt of educational services in Eastern European universities, much more primarily, should become consumer-oriented.

4. The task of the next study is to analyze legal relations between the subjects of educational services in some countries of Western Europe.

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## ПОРУШЕННЯ ПОРЯДКУ ЗДІЙСНЕННЯ МІЖНАРОДНИХ ПЕРЕДАЧ ТОВАРІВ, ЩО ПІДЛЯГАЮТЬ ДЕРЖАВНОМУ ЕКСПЕРТНОМУ КОНТРОЛЮ

**Попельнюк Н.В., аспірант кафедри кримінального права та кримінології УДФС  
України**

### **Popelnyuk N.V. VIOLATIONS OF THE PROCEDURE FOR THE IMPLEMENTATION OF INTERNATIONAL TRANSFERS OF GOODS SUBJECT TO STATE EXPERT CONTROL**

***Анотація.** В статті надається характеристика про тимчасове вивезення товарів – вивезення товарів з України до іноземної держави з наступним їх поверненням в Україну; Тимчасове ввезення товарів – ввезення товарів в Україну з іноземної держави з наступним їх вивезенням за межі України. Зазначається, що соціальний зв'язок у цих правовідносинах виражається у діяльності їх учасників, яка спрямована на забезпечення нормального функціонування діяльності щодо міжнародної передачі товарів, які підлягають державному експортному контролю та у запобіганні злочинності державним експортним контролем.*

***Ключові слова:** запобігання злочинності, державний експортний контроль, злочин, міжнародні передачі товарів військового призначення.*

*This article refers to the social relationship in the legal relationship that is expressed in the activities of the participants, which is aimed at ensuring the normal functioning of the international transfer of goods subject to state export control. The above mentioned activity of the subjects, their rights and responsibilities in relation to it are determined by the legislation. The material content of social relations is the behavior of these entities, and legal - the subjective legal rights and obligations established by law. In case of violation of the order of such activity, the damage to the object is caused by non-fulfillment or improper performance of the duties entrusted to the subjects of these relations, thus breaking the social connection through the illegal exclusion of oneself from these legal relations, which leads to creation of conditions for uncontrolled distribution of various types of weapons in the world, for the arming of extremist, terrorist groups, etc.*

*In addition, attention is drawn to the fact that public relations in the sphere of ensuring the inviolability of state borders is not always harmed or the threat of damage is created. For example, in violation of the rules of export of goods subject to state export control, the sale or transfer of goods to foreign subjects of economic and other activities may be carried out without export of these goods beyond the customs border of Ukraine. That thus, makes it possible to prevent both this crime and the commission of control.*

***Key words:** crime prevention, state export control, crime, international transfers of military goods.*

Порядок здійснення державного контролю за міжнародними передачами товарів військового призначення від 20.11.2003 р., № 1807 Інструкція про порядок заповнення заяв щодо отримання дозвільних документів, документів про гарантії та інших документів, що надаються Держекспортконтролем від 09.01.2004 р., № 4 Інспекційні повноваження, передбачені законами Встановлювати відповідність конкретних товарів, які є об'єктами міжнародних передач, найменуванню та опису товарів, внесених до