

STATE ADMINISTRATION OF HIGHER EDUCATION IN THE GLOBAL EDUCATION MARKET

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Abstract: *The article deals with the content and scope of activities of the state in the management of higher education in the conditions of the functioning of the global higher education market, the study of the specificity of the forms and methods of administrative and legal influence in the process of governance in higher education.*

Key words: *the function of the state, law, public administration, administrative law*

Currently, it is absolutely clear that the free market has ceased to be self-regulating and self-correcting system, there is a certain part of the economic area where the market „fails and does not work”.

Therefore, developed countries have come to recognize the need for state intervention in the market mechanisms, which can not exist by itself, outside of society and separate from the state. In these circumstances, it is the correct administrative-legal regulation, allowing to maintain market advantage, makes it possible to smooth out the negative aspects of its activities, especially in the social sphere, which is an integral part of higher education.

An essential part of globalization is the formation of the higher education market. The global market of higher education reached 50 billion US Dollars. Moreover, according to experts say¹, by 2020 it could rise to 200 billion US dollars. The leading position in the global market of higher education are the United States, Britain, Germany, France, Australia, China, Japan and Canada.

According to UNESCO, the potential of higher education market is estimated at about 140 million students. Foreign students their services offer thousands of higher education institutions from 129 countries, although the main competition takes place, as a rule, between the most developed countries of Western Europe and North America as well as Australia and Japan, where study more than 4/5 of all foreign students.

It is characteristic that accounts for 4/5 of global public spending on education for the same group of countries (in absolute numbers 1098,4 from 1386,8 billion dollars). Moreover, this ratio remains stable over the past 20 years. The above, in our opinion, allows us to consider higher education is not only the public property of the social sphere, but also as a separate branch of intangible production, the object of economic relations – an intellectual product, which satisfies the needs of certain public and can be sold as personalized capital².

¹ Global Education Digest -2007. http://uis.unesco.org/template/pdf/ged/2007/GED2007_rus.pdf.

² Lesly L. Johnson G. The model of perfect competition and the higher education market // The Journal of Higher Education. Vol. 45. No. 1 (Jan., 1974).



Thus, the higher education market is now becoming one of the largest sectors of world trade. Higher education, especially in economy developed countries, are increasingly developing as an export industry of the national economy. Currently, with absolute confidence we can say to exist that there is a branch of the world economy as the global higher education market.

Problems of development of national system of training of highly qualified personnel in modern conditions of globalization are related, in our opinion, first of all, improving the efficiency of public-legal influence on the system to save higher education as a public property.

Unfortunately, the real legislation is unlikely to cope with the problems of this kind. Quite significant conflicts characterize the administrative-legal regulation of certain activities of higher education institutions (budgetary and extra-budgetary financing, the organization of educational process, quality management education, etc.) and administrative-legal regime of the activity of institutions of higher education especially in terms of formation of a single world educational space. It is noted that educational normative legal acts of the higher education school are very unstable, subject to numerous adjustments, for which the law enforcer is quite difficult to follow. This “educational sphere” often engendered and raises serious conflicts of nationwide significance that caused the loss of population and the many subjects of economic activity confidence to the public administration authorities in the sphere of higher education.

In today's world there are different points of view, perspectives for receipt of higher education. Thus, according to the liberal point of view, higher education – regular service, which must always be paid. In accordance with the social position of higher education – public publicly available property. Third, technological position defines higher education as one of the factors of production, according to which it is regulated payment and accessibility. In accordance with the concept of a liberal view of the World Trade Organization (hereinafter – the WTO) regulates higher education as an object of purchase-sale. Based on the WTO concepts and to consider higher education as a sale of services to the consumer, then any country after joining the WTO is obliged to provide to all other countries – participants of the WTO legal regime of most favored nation in trade in educational services – the same opportunities, along with national and other foreign institutions of higher education.

In such circumstances, the national higher education institutions are not competitive with foreigners’, so to speak, any state become national educational bankrupt, but the national human capital will be the national wealth of the developed economic countries, which will supply not only the natural but also human resources. All this makes it necessary to apply administrative-legal regulators, change an existing above all administrative legislation to protect the national system of higher education. In connection with the above, in our opinion, it is required to develop the administrative-legal regime of adaptation of the national system of higher education to the conditions regulated by international acts signed with some state's accession to the WTO. In our opinion, administrative-legal regulatives higher education in the context of globalization must first of all ensure the educational national sovereignty in this area, so the development and preservation of the national high school in its best traditions and its professors and teaching staff as part of the national security system countries.

An example is the administrative-legal regulation in the field of higher education in the countries – the initiators of the Bologna Process, members of European Union that have not transferred the right to make decisions, aimed at harmonizing their legislation in the field of education, at the level of the Community.

The reason, in our opinion, lies in the fact that education in any state – is the result of a long historical process, absorbed the traditions, culture and national identity of each nation. The creation of common legal norms in the sphere of education will lead to a complete loss of national identity. In addition, education and culture are inextricably linked to each other. Culture in the same principle can not be unified. In addition, it should be noted the existence of various legal schools within the same branch of the law, and take into account the different national legal systems. Therefore, no state will go to voluntary renunciation of educational sphere from their national roots, history, religion and culture that formed the basis of state policy as a basis of national identity. In Russia, in this regard, unfortunately, we have to celebrate all diametrically opposed.

In our opinion, it is the globalization of higher educational sphere is to push the legislator to regulate social relations in this sphere, its development as an open and uniform state-social system, which will ensure efficient distribution of administrative responsibilities between the subjects of educational policy, members of the educational process by regulating the rules of administrative law, first of all, the correct responsibilities between the founders, especially by state authorities of executive power, and higher education institutions, their rights and duties, the economic independence of higher education institutions with the exception of excessive bureaucratic regulation of their activities.

Innovative paradigm of development of the national higher education system and its administrative-legal regulation – is the paradigm of the globalization era. The globalization as inevitable and objective process and dictates the need to increase transparency of the boundaries between the different national legal systems. For this reason national legal systems inevitably converge in the institutional and legal-technical plans.

Formation of the global educational market creates a need and a supranational regulation, manifested in an increasing array of integration law norms. The process of gradual convergence of administrative law in the sphere of higher education is objective, erasing legislative faces, the purpose of which is to eliminate constraints preventing to higher education by citizens in any country, in the short term will lead to the unification of administrative law in the sphere of higher education, standardization of regulatory requirements, presenting for activities institutions of higher education.

Therefore, during the formation of a holistic administrative law in the investigated sphere and should be considered as the neo-liberal global trends of legal regulation in higher education and the diverse nature of the legal systems of regulation of national markets in higher education.

For the formation of a national administrative legislation in the sphere of higher education in the countries with transitive economy is extremely important to take account of international trends in the administrative-legal regulation of relations in the sphere of higher education, as in the current context of the global higher education market is difficult to develop a closed, fully depending only internal factors from the national system of higher education. Authorized state organs of executive authorities must clearly grasp that the national system of higher education are already in the global higher education market, and take this into account from the very beginning of the process of formation of national administrative law in the sphere of higher education.

Literature

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