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Legal regulation of higher legal education: Foreign experience and prospects in Ukraine

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ABSTRACT

The purpose of the research. The purpose of the article is to clarify the problems of higher legal education in relation to transformational processes that require legal regulation. Main content. It is determined that that it is the higher educational institution that is the main subject of training a law professional capable of performing complex tasks of the transformational stage of the state development. Methodology: Review of materials and methods based on the analysis of the Ukrainian legislation regulating higher legal education. Conclusions. Outlined are problems of higher legal education requiring application of better foreign experience.

KEY WORDS: Higher legal education, higher education, foreign experience, education, Law, jurisprudence.

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Regulación legal de la educación jurídica superior: Experiencia extranjera y perspectivas en Ucrania

RESUMEN

El propósito de la investigación. El objeto del artículo es esclarecer la problemática de la educación jurídica superior en relación con los procesos de transformación que requieren regulación jurídica. Contenido principal. Se determina que es la institución de educación superior el sujeto principal de formación de un profesional del Derecho capaz de desempeñar tareas complejas de la etapa transformacional del desarrollo estatal. Metodología: Revisión de materiales y métodos basados en el análisis de la legislación ucraniana que regula la educación jurídica superior. Conclusiones. Se describen problemas de educación jurídica superior que requieren la aplicación de una mejor experiencia extranjera.

PALABRAS CLAVE: Educación jurídica superior, educación superior, experiencia extranjera, educación, derecho, jurisprudencia.

Introduction

In the current situation, it is extremely important to improve the system of higher legal education in Ukraine, to define key short-term strategies concerning development of the national legal framework and its harmonization with international standards and recommendations in this sphere. An even more necessary point consists in implementation of long-term strategies ensuring sustainable development and improvement of the higher legal education system in Ukraine alongside with its recognition of it in the European and world educational space.

Modernization of higher legal education in Ukraine requires overcoming a number of problems, including the following most relevant ones: inconsistency of the structure of specialist training with the real needs of the society, a decline in the quality of education, detachment from applied scientific research in the field of law, slow pace of integration into the European and world intellectual space.

Attempts to meet the level of development of scientific legal knowledge and the emphasis on informative saturation while preserving traditional educational technologies are embodied in problems of disciplinary overload of the content of higher legal education. Given the processes of knowledge expansion, there is a continuous increase in the number of educational disciplines, which should stimulate differentiation of educational space and

disciplinary separation. But this is rather problematic, especially in conditions of time limitation and it may also interfere with the formation of an integral approach in education.

The purpose of the article is to clarify the problems of higher legal education in relation to transformational processes that require legal regulation.

1. Literature review

There are specific developmental problems of the higher education system in Ukraine as a whole and these problems should be taken into account when analyzing the status of legal education in particular. For example, scientists emphasize problems of economic and social situation, deterioration of the demographic situation, which significantly affects the recruitment of students to higher educational institutions in general and, as a result, it affects training of qualified personnel directly for the legal sphere (Denysenko, 2010).

In particular, A. Denisenko notes that today we have two main directions of demographic problem, which arise in higher education: the first one is related to the constant increase in the age of highly qualified scientific and pedagogical personnel - candidates and doctors of science; the second one is related to a decrease in the birth rate in Ukraine and difficulties in recruiting students for studying. The problems of the first direction include a reduction in the number of state-sponsored places in post graduate courses and an increase in the volume of training on a commercial basis. There are also questions regarding publication of scientific research results, because most publications today are paid and royalty-free which sometimes becomes an obstacle on the scientific path of young talented scientists. As a result there is a reduction in the quantitative and qualitative personnel of scientific and pedagogical potential. Problems of the second direction are presented as reduction of the number of pupils of final classes of schools, junior colleges and upper secondary schools. According To A. Denisenko, the minimum number is expected in 2018-2019 (Denysenko, 2010).

An urgent problem consists in changing the structure of the educational process towards a decrease of classroom training and an increase of students' independent training and individual work. The essence, content and technologies of educational and methodical support require significant adjustment. A student graduating from a higher educational institution must possess relevant practical skills. Sources of students' acquisition of practical

skills consist in performance of individual tasks, involvement in cooperation with organizations and enterprises during fulfillment of their orders. According To O. Karpyshchenko, the latter source is more effective, since a person works with real tasks the results of which will be in demand and used in the future. However, in both cases the student's work should be managed by their teacher, and the level and quality of training depends on his/her professional skills. Unfortunately, some teachers are not fully familiar with peculiarities of activities performed by specific organizations and enterprises as well as with approaches used by employers for organization of their business and evaluation of the efficiency of hired workers. Therefore, there is a problem of improving qualification of the teaching staff precisely in the direction of gaining practical experience (Karpyshchenko, 2010).

As V. Zadoiany notes, the educational process of higher legal education in Ukraine is built according to the established view of the role of a lawyer in the society; it is overloaded with normative and theoretical training, weakly oriented to the practical training of specialists. Curricula do not always take into account the non-legal spheres of a lawyer's activity, which constitute an important pragmatic component of the everyday activity of a specialist in the sphere of law. The bottleneck is still possession of legal techniques, ability to solve specific legal problems, ability to find alternative solutions, possession of argumentation techniques, ability to work in a team, knowledge of Ukrainian business language, foreign languages, applied computer programs, etc. (Zadoiany, 2012).

2. Materials and methods

The research is based on the works of foreign and Ukrainian researchers, as well as on the empirical material of national and international legal acts and juridical (forensic) practice.

Comparative analysis and the dialectical method of cognition made it possible to comprehensively investigate the legal regulation of higher legal education. With the help of a synthetic method, peculiarities of the foreign experience of legal regulation of higher legal education have been determined.

3. Results and discussion

In order to successfully implement such complex tasks it is expedient to study and

borrow advanced foreign experience of training of legal personnel and to analyze the legal basis of functioning of the legal education system in a number of developed countries.

Taking into account the European integration aspirations of Ukraine the experience of European countries is primarily interesting.

Thus, in the Federal Republic of Germany, higher education is regulated by the federal law of 2002 “On the Reform of Legal Education”, the Law of 2004 “On Continuing Education and Higher Education”, the Law of 2004 “On Higher Education” and the Law of 1990 “On Courts and Legal Services”. In accordance with these laws, the general meetings of the association of lawyers (Bar Association) and the society of lawyers determine the qualification requirements for access to the legal profession. The German system of lawyers’ training is currently focused on training in both forensic and broad legal protection activities. This is partly due to the fact that only 5-10% of German graduates become judges, while 80% become attorneys. Today, legal education in Germany is aimed at training a value-oriented lawyer - a Eurolawyer (Minchenko, 2011). Special attention is paid to the quality of training a lawyer as an “artificial product”. On average, more than 40 law faculties of the Federal Republic of Germany employ approximately 900 professors and provide study for 2.5 to 7 thousand students. Graduates must pass two state exams and after that they become lawyers. Training of lawyers in Germany is also carried out in law schools, but their graduates cannot hold the positions of a judge, attorney and notary. In most cases, they work as civil servants, lawyers in commercial and other structures (Proskurniak, 2016).

There are about 100 legal higher institutions in England. Annual enrollments of students are approximately up to 100 persons (Zakharov, 2014). This ensures the possibility of using individual forms of working with students. For example, at a University in London a teacher works on an individual plan with no more than ten students, and a teacher in Oxford works with no more than three students. In the UK there is no unity regarding the balance of theory and practice in curricula and programs. The dominant view is that legal education is a kind of humanitarian education. The academic community is inclined to consider the law as a theoretical discipline. Only after obtaining a basic academic degree in the field of law, a student has an opportunity to perform practical tasks with the help of relevant internship programs organized by the professional community. In addition, it should be noted that quite a large number of university teachers are not certified lawyers and

have quite limited experience of practical work. The most common specializations in English universities are private law, public law, Roman law and Roman jurisprudence, history of English law, English law, comparative jurisprudence, etc. In general, legal education in the UK is divided into three stages. They include mastering the bachelor of law program, mastering the educational and professional programs of professional training of lawyers and legal practical training. Acquired knowledge, skills and abilities are reinforced by completing an internship (usually one year) (Proskurniak, 2016).

In the USA, future lawyers are educated in law schools that appeared in the first half of the 19th century. Today, there are about 200 schools of the kind. Higher legal education in the USA is characterized by narrow specialization and practical direction of training. The content of legal education is determined by law schools, American Bar Association, and large law companies. The main competencies include: problem solving, legal analysis and justification, studying legal literature and documents; fact-finding, communication, consulting, negotiation, knowledge of procedures related to lawsuits and alternative dispute resolution methods; organization and management in the sphere of legal activity, identification and resolution of ethical problems. The main task of American law schools consists in is preparation for gaining access to the professional community and successful legal activity. In this regard, studying programs of various law schools are aimed at the requirements of the lawyer's examination. Therefore, there are no fundamental differences between them, despite the absence of a single curriculum (Ishchenko, 2014).

It is worth noting that in the USA a graduate of a legal higher institution receives a license for law practice.

It is very important to include non-legal subjects in the curricula. In many countries, discussions are under way about the scope of including elements of non-legal sciences in legal education. The structure of legal education also varies: duration of study, its division into cycles, courses, semesters and trimesters. It is characteristic that there is no desire for complete unification, but only an attempt to bring different structural models closer together. Such a multivariate approach allows us to say that the procedure of borrowing foreign experience in the sphere of training of legal personnel at Ukrainian higher institutions does not require an absolute rejection of existing national traditions, but can be used as separate additions and improvements to the current system (Leheza ect, 2018).

Procedure of improving quality of legal education is related to its orientation to the demand of the most dynamic branches of the economic complex, social and cultural spheres of society's life as well as to formation of innovative forms and levels of legal education, training of legal specialists based on the correction of the content and nature of legal education, orientation to the needs of social development. Legal profession covers a wide range of socio-economic activities, and therefore training of lawyers at higher educational institutions should be maximally oriented to the realization of everyday socio-political, economic, and legal needs (Leheza et, 2021).

The outdated format of legal education preserves the tradition of teaching legal disciplines in a form that is directed exclusively to retelling current regulatory legal acts. In my opinion, it is necessary to change the general paradigm of the content of higher legal education by means of directing it to development of student's mental abilities and critical thinking of the student who must be taught to apply knowledge (Leheza et, 2020).

Taking into account the multifaceted nature of this problem, the main basis for development of scientific and methodological work consists in teaching of the methodology of legal activity. This factor is significant, because the law school aims to prepare students for solving both current and predicted legal problems. A separate issue of this problem is strengthening of practical orientation of the educational process, teaching students the means of legal activity (Leheza et, 2021).

Regarding directions of modernization of the educational process, the guidelines should be as follows: balancing the ratio of general legal disciplines and legal casuistry, as well as volumes and forms of the educational process. The ratio should change in the direction of increasing hours for practical classes depending on the year of study; active encouragement of students' independent work on the analysis of legal acts, judicial and administrative practice, special literature, further discussion of identified problems under guidance of the teacher and appropriate "crediting" in the modular system of education; introduction of courses of simulated (game) court hearings, administrative and legal procedures with participation of practicing lawyers; forming foundations of students' professional activity, developing and writing legal documents, learning the ethics of representing interests of citizens and companies in courts and other government institutions; introduction of new forms and methods in the study of such disciplines as: legal

business writing, legal conflictology, legal technique, etc. (Zadoianyi, 2012).

The issue concerning moral and ethical climate in the professional training of young people is important. The mechanism for continuously updating the content of legal education in accordance with the modern needs of the Ukrainian society is imperfect. In the curricula of higher educational institutions do not have enough disciplines, which in their content would be oriented towards formation of morality and political culture of future lawyers, and especially their ability to navigate complex socio-political situations in the state and the world as a whole. Unfortunately, the sharp reduction in the volume of non-legal disciplines in the curricula of lawyers in recent years does not contribute to solution of such tasks (Leheza et, 2021).

The main tasks of high-quality legal education in a democratic society include the following: diversification of specializations of legal profession graduates and periodic renewal of such specialization depending on the needs of the socio-economic activity of the society; optimization of the system of training specialists for law enforcement agencies; establishment of unified requirements as for the content of higher legal education; increasing the number of practically oriented educational disciplines aimed at development of individual professional qualities of students; involvement of domestic and foreign specialists in the field of law in the educational process; application of proven world methods (Roskopina, 2012).

Taking into account the needs of integration of the system of higher education of Ukraine in the European space, higher institutions are given the right to organize teaching of disciplines in foreign languages in order to create conditions for international academic mobility.

Conclusions

Therefore, prospective development of the legal education system involves bringing it into line with global requirements while maintaining national traditions. Training of legal professionals should take into account the established general standards of the legal profession and its modern specificity. Modernization of higher legal education leads to development of fundamentally new theoretical, methodological and organizational principles concerning improvement of the higher legal education system. Transformation of higher legal education should take place in a systematic, comprehensive and parallel way

with the reform of the entire system of education in Ukraine.

When improving legislation on the legal sphere and, accordingly, legal education, representatives of the legal community, professional associations, teaching staff, researchers, graduate students, students, practicing lawyers and employers should be involved in the discussion of the development models of this system. The process of preparing such legislative acts should be accompanied by extensive information support and constant monitoring of changes in the system of higher legal education. Unacceptable is the situation when development of legislative acts intended to stimulate educational reforms is secret and unofficial. This applies, for example, to the draft law of Ukraine “On Legal (Law) Education and General Access to the Legal Profession”; the content of this draft law was critically evaluated by the legal community. Such documents will not have the proper quality and thus they will not contribute to the improvement of the legal personnel training system if creation of a modern fundamental legal framework is not an open and transparent process, and the content does not meet public needs. Only a balanced approach guarantees success of reforms, opens up new prospects for development of the legal personnel training system.

After all, the tasks performed by legal higher educational institutions have a high level of complexity, which requires the scientific and pedagogical staff to have an appropriate competence and an ability to apply active and interactive techniques and methods of teaching law, which are based on innovative approaches. I would like to emphasize that despite the rather difficult working conditions for teachers and scientists of Ukraine, they not only represent the elite of our society and ensure promising development of the Ukrainian nation and our state, but also form the elite of the future, and therefore they need support and proper evaluation on the part of the state and authorities, as well as on the part of the society.

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