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TÍTULO: El Proceso de Bolonia y garantías constitucionales del derecho personal a la educación en la formación de médicos.

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RESUMEN: El artículo se centra en el problema de la implementación de las principales disposiciones del proceso de Bolonia en el sistema educativo ucraniano. Una de las prioridades del Proceso de Bolonia es la creación de un entorno educativo europeo, que es una forma clave para promover la movilidad académica y proporcionar trabajo a las personas. El artículo revela que hay factores negativos que afectan la movilidad internacional de los estudiantes de medicina. Se concluye que la solución exitosa de estos problemas se debe a la combinación sinérgica de la implementación de los requisitos del Proceso de Bolonia con las garantías constitucionales del derecho de una persona a una educación de calidad en la formación de futuros especialistas en el campo de la medicina.

PALABRAS CLAVES: Proceso de Bolonia, derecho legal, educación médica, estudiantes de medicina.

TITLE: Bologna Process and constitutional guarantees of a personal right to education in medical practitioners' training.

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ABSTRACT: The article is focused on the problem of implementation of the main provisions of the Bologna process in Ukrainian educational system. One of the priorities of the Bologna Process is creation of European educational environment, which is a key way for promoting academic mobility and providing people with jobs. The article reveals there are negative factors affecting international mobility of medical students. It is concluded that the successful solution of these problems is due to the synergistic combination of the implementation of the requirements of the Bologna Process with the constitutional guarantees of the right of a person to quality education in the training of future specialists in the medical field.

KEY WORDS: Bologna Process, legal right, medical education, medical students.

INTRODUCTION.

The right to education is ensured in both international and Ukrainian legal acts. It should be considered as a certain type and/or the extent of a person's activity which is aimed at the development of his/her personality due to gaining knowledge, competence and experience, learning new skills, exchanging of views and improving personal abilities by combination of medical students' individual learning processes and teaching process at higher medical educational institutions.

The Bologna Declaration clearly gives priority to exercise the personal right to education owing to the creation of European educational environment, which is a key way of promoting academic mobility and providing people with jobs. Art. 53 of the Constitution of Ukraine guarantees a personal right to education which establishes the basis for the international experience implementation and for the improvement of the implementation process of this constitutional provision. These measures are necessary due to the demands of modern Ukrainian society and a strategic course of Ukraine to European integration which involves internalizing basic European values such as parliamentarism, liberalization, human rights including the right to education, the rights of national minorities, freedom of movement rights, etc.

The purpose of students' training at higher medical educational institutions is to obtain appropriate educational qualifications according to the established international or national standards of education.

A number of scholars (T. Lukina, O. Liashenko, Z. Humenna, V. Luhovyi, K. Korsak, O. Savchenko, V. Kachalova) have devoted their scientific works to the issue of implementation of the main provisions of the Bologna Process in Ukrainian educational system. However, we need further systematic research of constitutional legal norms concerning the quality of education, which are the fundamental basis of the Bologna Process. The issue of legal liability improvement for violation of

laws that control the quality of education, higher medical education in particular, requires deeper research as well.

In the context of the research topic, it is necessary to establish the legal nature and history of the Bologna process in order to find out its relation with the constitutional guarantees of the right to education.

S. Zahorodniy, defining the content of the right for education, differentiated particular types of education – preschool, secondary, vocational, undergraduate and postgraduate (Zahorodniy, 2007, p. 9). On the other hand, R. Valyeyev offered another view on the content of the right for education and distinguished its components:

1) The right of every person to equal access to all educational institutions, as well as equal conditions of getting preschool, secondary, vocational, undergraduate and postgraduate education and equal conditions of state certification at all educational institutions.

2) The right to self-education.

3) Right of citizens of Ukraine to free undergraduate education (on a competitive basis) in state and municipal higher education institutions (Valyeyev, 2014, p. 51).

V. Boniak distinguishes such components of the content of the right to education as the right to personal actions, the right-demand, the right-claim and the right-exercise (Boniak, 2005, p. 13).

Therefore, there is no common approach to defining the meaning of the content of education.

However, with the purpose to exercise the personal right to education, a certain system of conditions has been formed in laws. These conditions meet people's demands for better medical practitioners' education on the basis of interdisciplinary integration.

Researching the issue of legal guarantees, V. Pohorilko, V. Holovchenko and M. Siryi state that these conditions are specific legal tools for ensuring, exercise, security and protection of human and civil rights (Pohorilko, Holovchenko & Siryi, 1997, p. 40).

The legal encyclopedia of Y. Shemchushenko defines the meaning of legal guarantees as legislatively enshrined means and ways of protection the subjective rights of citizens and organizations, ways of their realization, as well as means of ensuring legitimacy and law enforcement, interests of the individual, society and state (Shemchushenko, 1999, p. 702).

Taking as a basis the content of the right to education in determining legal guarantees, it is appropriate to state that the legal guarantees of a person's constitutional right to education are a set of certain conditions, methods, means and ways by which a person is able to realize their potential and, if necessary, to protect their constitutional right to education. Instead, the state is obliged to protect these rights and to establish legal liability in case of their violation.

According to O. Kulinich, the constitutional guarantees of the right to education are "... a set of legal norms and mechanisms contained in the text of the Basic Law and are the basis for guaranteeing the right to education as a whole, and since the Constitution has the highest legal force in the system of legal norms, it defines the fundamental order of education of a person and a citizen in the country" (Kulinich, 2013, p. 72). In the context of the research topic, this position should be taken as a basis, since the normative legal guarantee of a person's constitutional right to education is ensured, first of all, by the Constitution of Ukraine, as well as by the whole system of current legislation (constitutional, civil, administrative, criminal, etc.) and international legal norms. In particular, V. Kovtunets emphasizes the constitutional basis of universal education, which is a direct guarantee of the subjective right to education (Kovtunets, 2009).

The purpose of the article is to analyze the main international and national normative legal acts concerning the relation of the Bologna process to the international and constitutional guarantees of the human right to education in the process of medical specialists training on the basis of interdisciplinary integration.

DEVELOPMENT.

Theoretical bases of the study.

The national legislation clearly defines the constitutional guarantees of the human right to education, which are the basic principles of educational law. Hence, Part 2 of Art. 53 of the Constitution of Ukraine stipulates that the state ensures the accessibility and free of charge pre-school, full general secondary, vocational and technical higher education in state and municipal educational institutions. In accordance with the decision of the Constitutional Court of Ukraine, the availability of education as a constitutional guarantee of the implementation of the right to education means that no one can be denied the right to education, and the state must provide opportunities for this right implementation."

More than 150 thousand future medical specialists who are the citizens of Ukraine are trained in the system of higher education of Ukraine. As of 2018, there are 14 public and 5 private higher education institutions (HEIs) operating in Ukraine, that train future medical professionals. At the same time, the vast majority of students are trained at HEIs subordinate to the Ministry of Health of Ukraine (Table 1).

Table 1. The number of Ukrainian students receiving medical education in 2018.

At the universities subordinate to the Ministry of Health of Ukraine	At the universities of other subordination	At the colleges of the Ministry of Health of Ukraine	At the medical colleges of other subordination
74133	20568	11864	46949
The total number of students trained at higher medical educational institutions:		The total number of students trained at medical colleges:	
94681		58813	
The total number of students obtaining higher medical education: 153494			

One of the constitutional principles being a guarantee of a person's right to education is free education. The Constitutional Court of Ukraine has clarified that free education as a constitutional guarantee of the implementation of a person's right to education means the possibility of obtaining education at state and municipal educational institutions without paying for educational services defined by law, level, content, volume and within those types of education which are defined as those that do not require payment provided in Part 3 of Art. 53 of the Constitution of Ukraine. In turn, Part 1 of Art. 53 of the Constitution of Ukraine establishes the principle of obligation of general secondary education, which in its essence is the obligation of the state to fully finance the process of education of students within the State standard of general secondary education.

The content of Part 4 of Art. 53 of the Constitution of Ukraine reads that such principle for exercising a person's right to education as competitiveness should be distinguished. So far, the access to higher education at state and municipal higher education institutions is to create appropriate conditions for their functioning and development, under which a person would be able to exercise the right to obtain higher education through competitive selection, taking into account their abilities and interests in the free choice of higher education institution, field of training, specialty, profile of education (Constitutional Court of Ukraine Decision on 04.03.2004 № 5, 2004).

The legal guarantees of a person's right to education include the provisions of Part 2 of Art. 53 of the Constitution of Ukraine on "... providing state scholarships and benefits to pupils and students", which should be named the principle of social protection of future professionals in the medical field. The main point of this provision is explained in Part 2 of Art. 3 of the Law of Ukraine "On Education", which means social protection for pupils, students, cadets, trainees, clinical residents, graduate students, doctoral students and other persons, regardless of forms of their education and types of educational institutions where they study, promotes home-based education (Law On Education, 1991).

According to T. Matyusheva, the constitutional principles of access, free of charge, competitiveness, social protection should be supplemented by the principle of the equal right to education. And this is because a large part of international normative acts contains provisions on equality in the field of education and prohibition of discrimination of the right to education (Matyusheva, 2009, p. 45). This legal prescription at Ternopil National Medical University named after I. Ya. Gorbachevskyi Health Ministry of Ukraine is being implemented for future medical professionals both for Ukrainian citizens and for foreign citizens (Table 2).

Table 2. The number of students studying at the Medical Faculty at Ternopil National Medical University named after I. Gorbachevskyi Health Ministry of Ukraine in 2018.

Educational qualification level		Mode of study	Total Number of students studying at the Medical Faculty			Percentage ratio (%)		
			Total	Citizens of Ukraine	Foreign citizens	Total	Citizens of Ukraine	Foreign citizens
I	Bachelor Degree	Full-time	3161	1650	1511	79,9	41,7	38,2
II	Master Degree	Full-time	794	640	154	20,1	16,2	3,9
Total:			3955	2290	1665	100	57,9	42,1

It is seen from Table 2, the number of students who chose higher education at the medical faculty is 3955 people (100%), among them 3161 persons (79.9%) have a bachelor's degree, and 794 persons (20.1 %) obtain a master's educational level. At the same time, 1650 students, citizens of Ukraine (41.7%), and 1511 students, foreign citizens (38.2%), preferred higher education at the first "bachelor" level, and 640 (16, 2%) and 154 (3.9%) respectively. This gives reason to claim that the right to free access to higher education for both Ukrainian and foreign citizens is properly ensured.

In the context of Europeanization and integration of the education industry into international education standards, one of the most important principles of a person's right to education, the quality of education, should be addressed. It means that the high quality of training future medical specialists guarantees the proper level of educational services, in other words, it is responsible for meaningful ensuring the right of person to education.

The quality of education as a legal guarantee of a person's right to education should be characterized as a set of specific features of educational services, which determine its ability to meet certain needs according to its purpose and meet characteristics of specificity, reliability, durability, level of certain standardization and unification. Thus, in the national state standard of Ukraine DSTU ISO 9000: 2001, which fully complies with the international standard ISO 9000: 2000 Quality management systems - Fundamentals and dictionary, quality is understood as the degree of conformity of a set of own characteristics of products, process or system to formed needs and expectations, generally accepted and mandatory (National state standard of Ukraine, 2001).

In paragraph 23 art. 1 the Law of Ukraine “On Higher Education” from 01.07.2014 the concept of quality of higher education is fixed, that covers the level of knowledge, skills, other competences acquired by a person, which reflects its competence in accordance with the standards of higher education. Also, this legal act defines the quality of educational activity, the aim of which is the level of organization of the educational process of higher education that meets the standards of higher education, ensures the acquisition of high standard higher education by persons and promotes the creation of new knowledge (Law On Higher Education of Ukraine, 2014).

In the course of medical specialists training on the basis of interdisciplinary integration, the prospects for the development of constitutional principles of a person's right to education in Ukraine are mostly related to the implementation of the quality of education and caused by fundamental changes in the society and the education system. Today’s needs in providing the proper conditions

for ensuring educational services and the adaptation of Ukrainian legislation to international education standards are caused not by declarative nature, but by the realization of the quality of education basis which is responsible for the proper implementation of The Bologna Process norms and rules at higher education, as well as in preparation of medical specialists.

The investigation of The Bologna Process implementation on the territory of Ukraine is caused by the prospect of the constitutional guarantee development of the right to education at higher medical institutions and is associated with the development of a clear regulatory framework, which requires a systematic and qualitatively new approach, taking into account the specifics of the national legal system.

Methodology.

To achieve the above mentioned goal, the following set of methods was applied: theoretical analysis, comparison, reasoning, generalization, systematization of theoretical and practical material, study of the main international and national normative legal acts in the context of the relation of The Bologna Process with the person's guaranteed right to the education in the process of getting higher medical education, formulation and systematization of conclusions.

Results.

The reason for the introduction of the Bologna process and the definition of common international standards for the provision of educational services the recognition of qualifications for higher educational system in the European region, the coordination structure of higher education, the creation of a common system aimed at increasing access to European education and competitiveness of future medical professionals and educational services in Europe was the signing of the Joint Declaration of European Ministers of Education "European space in higher education" on June, 19, 1999. Hereby, the participating countries agreed on measures to solve the problem of

increasing the international competitiveness of European higher education system. This is for the reasons that the viability and efficiency of any civilization is measured by its cultural influence to other countries. The declaration proclaims common requirements, criteria and standards in national higher education systems, and basic elements of creation a single European educational space have been agreed upon. These elements are:

- 1) Confirming the general and comparable system of academic degrees, including the introduction of the Diploma Supplement, in order to promote European citizens employability and the international competitiveness of European higher education system.
- 2) Introduction of an educational system which is based on two main cycles, undergraduate and postgraduate. Access to the second cycle of studies will require successful completion of the first one, which should last at least three years. The degree awarded at the end of the first cycle will be perceived in the European labour market as an appropriate level of qualification; the end result of the second cycle of study should be a Master's degree and/or PhD degree as in many European countries.
- 3) Creation of a credit system, such as the European Credit Transfer System (ECTS), as an appropriate means of promoting greater student mobility. Credits can also be obtained outside of higher education provided they are recognized by the respective recipient university.
- 4) Promoting mobility by removing barriers to effective exercise of the right to free movement with immediate purpose of: providing students with access to learning opportunities and adequate services; ensuring recognition and considering time spent by a teacher, researcher or administrative staff at a European educational institution conducting research, teaching and performing their professional work with preservation of their legal rights; promoting European cooperation in assurance of quality education to develop comparable criteria and methods; promotion of definite European standards in the field of higher education, particularly those concerning the development

of curricula, cooperation between educational institutions, mobility patterns and integrated teaching, research and educational programs (European Union; Declaration “European Space in the sphere of Higher Education” International Document, 1999). At the same time, a number of barriers encountered by students in the course of international mobility should be highlighted (Table 3).

Table 3. Negative factors affecting international mobility.

Barriers on the way to international mobility	
<i>Ukrainian citizens (students)</i>	<i>Foreign citizens (students)</i>
Shortage of funds	Shortage of funds
Insufficient level of foreign languages	Personal circumstances
Lack of information	Organization of training
Absence of necessity	Problems with recognition
	Lack of information
	Limited access to mobility programs
	Insufficient level of foreign languages

The survey conducted by the Ministry of Health of Ukraine at Ternopil National Medical University named after I.Y.Gorbachevsky demonstrated the students to have a number of barriers on their way to international mobility. The comparison has led to certain conclusions as to similarities and differences in the barriers for Ukrainian and international students on their way to mobility. Shortage of funds was found to be the commonest problem among all the students. Insufficient level of knowledge of foreign languages was admitted by Ukrainian students as a serious barrier, by contrast to foreign citizens.

Experience in implementation of the main provisions of Bologna Process is indicative of its general availability. Ye. Krasnyakov exactly admits that “unlike joining the European Union, creation of single European higher education space does not require strict compliance with economic, social or political criteria. The only formal condition for joining the Bologna process, according to Berlin Communiqué, is subscription of European Council Cultural Convention of 1954” (Krasnyakov, 2012, p. 35).

Thus, to understand Bologna Process, such basic criteria as various educational potentials and diversity in educational systems should be considered, as well as understanding the process as a sequential change of stages in the development of nature, society, human thinking and going through different states and stages. According to those criteria, Bologna Process is referred to as a set of consistent actions in the field of reforming national higher education systems in European countries, based on globalization processes in the field of European scientific and education space. The aim of Bologna Process is to achieve the following results: improving the competitiveness of graduates of higher educational institutions in employment; ensuring mobility of individuals on European labor market, etc.

As Ukraine is an equal member of Bologna process since the signing of Joint Declaration of European Ministers of Education "European Space in Higher Education" of June, 19, 1999, proper legal protection of person's constitutional right to education should be dominant in legal regulation of education sector. It should be emphasized that regulatory basis of Ukrainian education sector consists of a large number of regulatory acts aimed at ensuring legal regulation of educational system. However, a number of problems need to be addressed when determining the link between the Bologna Process and the constitutional guarantees of a person's right to education:

First, it is the harmonization of the legal framework for the education sector with international and European standards systems.

Secondly, it means the transition to a national level system of training specialists. This makes it possible to satisfy a person's needs to achieve a certain educational and qualification level in the desired areas (specialties) in accordance with their abilities, which will ensure its mobility "without borders" in the labour market.

Thirdly, it means the formation of a lifelong learning society, the creation of positive conditions for the motivation of individual development, socialization and self-regulation in the European space.

The fourth point is the formation of systems for the provision and control of the quality of educational services at a level not lower than national requirements (standards), which correspond to the world practice, and in the forms, structure and content of programs, terms of training, sources of financing, satisfying interests and needs of each person and state.

Fifthly, the formation of national and universal values, equal opportunities in education, continuous improvement of the quality of education by updating its content and forms of organization of the educational process, preserving and strengthening the health of participants in the educational process, providing economic and social guarantees for teaching staff, improving their social status.

The sixth point is increasing the role of vocational education in the socio-economic and cultural development of society, comprehensive consideration of the needs of citizens in professional self-realization, stimulating the participation of employers in training, material support for vocational schools and the implementation of educational projects.

Seventh point is the creation of conditions for state support and political decision making for the dynamic integration of Ukraine's educational sphere into the European educational space (Krasnyakov, 2012, p. 26).

We see the successful solution of these problems due to the synergistic combination of the implementation of the requirements of the Bologna Process with the constitutional guarantees of the right of a person to quality education in the training of future specialists in the medical field. Thus, in the legal literature there are a number of different positions to understanding the quality of education (J. Cobly, M. Witt et al., 2000; N. Selezneva, 2004; S. Nikolayenko, 2006; R. Koval'chuk, 2011). Their analysis gives grounds for highlighting such characteristic features of the quality of education that will ensure the proper implementation of the requirements of the Bologna Process:

Firstly, the quality of education involves the following components: students ready to participate in the educational process and learn with the support of the family and society; the content of the education reflected in the typical training programs and materials for mastering basic knowledge, skills and competences; educational process aimed at personal development and formation; results that combine knowledge, skills and personal attitudes and are linked to national educational goals and positive participation in public life (J. Cobly, M. Witt et al., 2000).

Secondly, the quality of education should be understood as a balanced correspondence of the process, the result and the educational system itself to the purpose, needs and social norms (standards) of education.

Considering the characteristics of the quality of education, it is worth noting that under today's conditions the domestic education system does not fully respond to the new globalization processes, as it does not have time to respond to the new economic needs of developed countries.

Disparity in legal regulation and regulation of education system in Ukraine the requirements of Bologna process gradually escape due to improve the quality of education. However, there is a number of objective factors that affect the quality of education and implementation of the basic principles of Bologna process. These factors are:

- 1) The quality of human resources that depends on the level of the country development and its global economic competitiveness.
- 2) The specificity of management education quality, which is the management of human activities, which is the object of pedagogical influence.
- 3) The quality of professional training medical professionals - essential requirement to Ukrainian higher education, as it reflects the desire of integration in the European educational space.

Implementation of constitutional guarantees person rights to education, including quality of education in the ratio of the requirements of Bologna process is characterized by a continuous exploratory study and implementation of events in the field of education for its reform.

CONCLUSIONS.

It leads to the conclusion that the main disadvantages of educational activities in the training of future professionals in the medical field are the following:

Firstly, it is the lack of effective decentralization of educational management, which is a consequence of the use of management methods of the administrative-team system.

Secondly, the private sector in education is developing very slowly, which does not create alternatives and competition to higher education institutions of state and communal ownership.

Thirdly, state educational standards are gradually being adapted to the qualitative requirements of the modern labor market, taking into account regional, industrial and sectoral characteristics.

Fourth, there are no real conditions for public participation in the process of development and making decisions in the field of improving the quality of higher medical education, ensuring its accessibility, free of charge, competitiveness, social protection and a good quality.

Fifth, the national system of qualifications, the list of branches of knowledge, directions, specialties of education do not meet the modern requirements, that's why young specialists, receiving diplomas

of education, by qualitative indicators, cannot find a job. For the same reason, they are deprived of the mobility rights envisaged by the Bologna Process.

Sixth, annual increase in the cost of educational services and the reduction of government procurement for them diminishes the financial capacity for getting higher education for most people who study at their own money.

Thus, in order to solve the problems identified by the implementation of the requirements of the Bologna Process in relation to the constitutional and legal provision of the person's right for education in the field of training future specialists in the medical fields, it is necessary:

- 1) To make the system of national rating of educational institutions to the international system of such rating based on the results of standardized evaluation of independent national and international agencies, which can be created both by sectoral and general, with obligatory involvement of employers' in the development of monitoring criteria.
- 2) External independent evaluation of graduates of general educational institutions should be conducted on the basis of systematic and standardized educational programs, which must be approved at the regulatory level.
- 3) To recognize the results of standardized testing as the sole basis for entry into higher education institutions, taking into account the specifics of persons with special educational needs.
- 4) To develop the necessary legal acts to ensure the proper quality of the provision of educational services in the training of medical professionals, with mandatory prior discussion on the basis of social dialogue with the use of international practice, and in order to avoid contradictions and gaps in the implementation of constitutional legal guarantees of law persons with education in view of all the requirements of the Bologna Process.

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