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**TÍTULO:** Direcciones conceptuales de la mejora de la legislación en el campo de la gestión de la educación superior.

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**RESUMEN:** La implementación de cambios a gran escala en el campo del sistema nacional de educación superior, su integración en el espacio educativo mundial también requiere cambios en la regulación administrativa y legal de las relaciones que tienen lugar en el campo de la administración pública de la educación superior. El propósito de este documento es el análisis de los aspectos problemáticos de la regulación legal de la educación superior y la autonomía de las instituciones de educación superior en Kazajstán.

**PALABRAS CLAVES:** educación superior, gestión de la educación, Declaración de Bolonia, enseñanza y asociación metódica, derecho a la educación.

**TITLE:** Conceptual directions of improvement of legislation in the field of higher education management.

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**ABSTRACT:** The implementation of large-scale changes in the field of the national system of higher education, its integration into the world educational space also requires changes in the administrative and legal regulation of relations taking place in the field of public administration of higher education. The purpose of this paper is the analysis of problematic aspects of legal regulation of the higher education and autonomy of higher education institutions in Kazakhstan.

**KEY WORDS:** higher education, education management, Bologna Declaration, teaching and methodical association, right to education.

**INTRODUCTION.**

The right to education is a constitutional institution and is the basis for the legal status of an individual. The state with its possibilities must become a guarantor of the constitutional rights of an individual, including rights in the sphere of education. Measures of state support for education are needed to be combined with the strengthening of the role of the state in ensuring the compliance of educational activities with the needs of the individual and society.

The purpose of this paper is the analysis of problematic aspects of legal regulation of the higher education and autonomy of higher education institutions. The system of higher education in Kazakhstan is actively seeking new ways of effective implementation in the world educational space. There is constant work on improving the education system in the whole world. The main goal of the development of higher education is the provision of quality education services at the level of world standards, satisfaction of long-term strategic interests of society, the state and the individual, improving the quality of training specialists through systemic reform of the university system.

Within a short period of its development, the Kazakhstan education system, including higher education, has changed significantly. The Republic of Kazakhstan is integrating into the European educational space considering the international standards in the field of education in the context of Kazakhstan's accession to the World Trade Organization and the integration into the Bologna Process.

There are a lot of positive moments in the ongoing reform of the state, as a result of which, Kazakhstan universities became recognizable in the list of world rating companies; scientists and professor got the opportunity to get training courses in the best universities and research centers of the world; on the program of academic mobility students got the possibility to study in the best universities of the world; new scientific and research institutes and centers are actively created; in the connection with the elimination of the traditional dissertation councils the distribution of diplomas of candidates and doctors of sciences was terminated; the state allocates huge sums of money for the development of science and education, etc. The above-mentioned measures are carried out to ensure the quality of higher education and activization of scientific work in higher educational establishments.

**DEVELOPMENT.**

Legal prerequisites of autonomy of higher education institutions are discovered in the accession of Kazakhstan to the Bologna Process in 2010 that opens great opportunities for Kazakhstan universities to implement joint educational projects, such as dual diploma education, mutual recognition of academic courses, international accreditations, and the issuance of a European-wide appendix to the diploma for Kazakhstan university graduates (Piven & Pak, 2006).

There have been major changes in the system of higher education after the accession as:

- Credit training technology was introduced in the educational process of universities.
- Transition to a three-level model of training specialists: bachelor, master and doctoral studies such as the Ph.D.

The main priorities of the Bologna Process are reflected in the strategic documents of higher and postgraduate education:

- The Law of the Republic of Kazakhstan “On Education” as of July 27, 2007.
- The Law of the Republic of Kazakhstan “On Science” as of February 18, 2011.
- Strategic Development Plan of the Republic of Kazakhstan up to 2020.
- The State Program for the Development of Education of the Republic of Kazakhstan for 2016-2019.
- The Strategic Plan of the Ministry of Education and Science of the Republic of Kazakhstan for 2011-2015.
- Action plan for 2011-2015 on the realization of the State Program for the Development of Education of the Republic of Kazakhstan for 2011-2020 (Phase I), etc. (“State Program,” 2010).

Realization of one of the main goals of the Bologna Process, a multi-level system of consecutive and consistent qualifications of higher education, is complicated and time-consuming in the Kazakhstan university system.

Kazakhstan as a participating country of the Bologna Process assumes obligations to fulfill its main parameters until 2020: mandatory, recommendatory and optional.

Kazakhstan universities are legally obliged to meet international standards and criteria of international rating companies and agencies in the world educational space.

The issues of quality provision have become the instruments of national policy, which are based on political motives of strengthening the link between higher education and the labor market as well as the rise of the status of universities. In addition, annually Kazakhstan universities improve their positions in the world academic rankings (“Ministry of Education,” 2012).

At the same time, there are several unresolved issues, which do not allow implementing the tasks set by the state in the field of higher education in a full way. In most cases, these are the problems of an organizational and legal nature.

The implementation of such large-scale changes in the field of the national system of higher education, its integration into the world educational space also requires changes in the administrative and legal regulation of relations taking place in the field of public administration of higher education. Of particular importance in these conditions are the issues of administrative and legal regulation of the activities of public authorities in the field of higher education management. There is a need not only for administrative and regulatory impact in order to increase the efficiency of public administration in higher education, which requires speed and special dynamism in making management decisions in the context of a dynamically changing situation in both the national and global educational markets, but also to develop clear and correctly determining the competence of

state authorities in the field of higher education in the new market conditions of their activities (Mukhamedzhanov & Abdirayymova, 2011).

Improvement of legislation in the field of public administration of higher education, due to the formation of both national and global higher education market, should, in our opinion, focus on the legal mediation of public administration in higher education in new market conditions at different levels of government: federal, regional and local. This includes, in relation to activities in the field of higher education, the development of a general theory of state organizations, functions of the state administration at different levels, coordination of government as an integrated system, development of the theory of state decision making, political forecasting, methods of government in crisis and conflict situations, technologies of relations between state authorities and mass media, etc. (Kurmanov, Yeleussov, Aliyev, & Tolysbayev, 2015; Yeleussov, Kurmanov, & Tolysbayev, 2015).

Thus, the authors of the collective monograph “Trends in the Development of Higher Education in the Modern World” include in improving government administration in the field of higher education, as a process requiring administrative and legal regulation, in a broad sense, “developing the most important areas of educational policy, planning goals and important characteristics educational systems, the development of educational structures and indicators of the quality of education, the preparation and implementation of plans, programs, projects and priorities x directions of development of education, evaluation and monitoring of educational policy, resource providing education, training and retraining of teaching and administrative staff”.

One of the ways to determine the prospects for improving legislation in the field of public administration of higher education in Kazakhstan in the educational market is to identify the main trends in this area, since, speaking of trends in the management of higher education in modern Kazakhstan; it is intended to identify those stable relationships that are inherent in the national

higher education system and on the basis of which it is possible to make predictions about its further development. The organization of system management largely depends on the managed system itself. Consequently, the development trends of the system predetermine the corresponding adequate changes in the control system.

It should be noted that the desire to improve legislation in the field of public administration of higher education is still being implemented in the preparation of amendments and additions to the basic laws on education. Despite the simplicity and attractiveness of such a development of legislation in the field of public administration of higher education along the path of amending existing legal acts, the choice of this option as the main one results in a mass of legal conflicts and difficulties in law enforcement (Gurevich, 2011; Sagitova, 2012). Numerous unsystematic additions, often dictated by the immediate needs of practice and policy, have already led to a situation where the issue of adopting a new edition of these laws is relevant.

The common component of the “state-institution of higher education” relationship in developed countries is embodied in the coordination of the activities of higher education institutions, primarily state-owned ones, with national educational policies. The autonomy of institutions of higher education does not abolish, but implies their responsibility, and therefore, accountability to the state (Vasilyeva, 2011).

Education, according to Section 1 of the Law of the Republic of Kazakhstan “On Education” dated July 27, 2007, is understood as a continuous process of education and training, carried out for the purposes of moral, intellectual, cultural, physical development and the formation of professional competence. At the same time, the basic principles of state policy in the field of education are enshrined in paragraph 1 of Section 3 of the Law of the Republic of Kazakhstan “On Education” dated July 27, 2007, and include:

- 1) The equality of the rights of all to receive a quality education.
- 2) The priority of the development of the education system.
- 3) Accessibility of education at all levels for the population, considering the intellectual development, psycho-physiological and individual characteristics of each person.
- 4) The secular, humanistic and developing character of education, the priority of civil and national values, human life and health, and free personal development.
- 5) Respect for human rights and freedoms.
- 6) Stimulation of personal education and the development of giftedness.
- 7) The continuity of the educational process, ensuring the continuity of its levels.
- 8) The unity of training, education, and development.
- 9) The democratic nature of education management, the transparency of the education system.
- 10) A variety of educational organizations in the form of ownership, forms of training and education, areas of education (“Law”, 2007).

The Republic has adopted and operates the State Program for the Development of Education and Science of the Republic of Kazakhstan for 2016-2019. The goal, which is to increase the competitiveness of education and science, the development of human capital by ensuring the availability of quality education for sustainable economic growth (“Decree”, 2016).

The right to education has a special place in the human rights system and is included in international human rights standards. In turn, the Republic of Kazakhstan, being a full member of the international community, also assumes international obligations in the area of the realization of citizens’ rights to education, clearly demonstrating adherence to the norms of international law in order to develop civil society and democracy. Thus, on August 28, 2016, Kazakhstan ratified the Convention “On Combating Discrimination in Education”. The purpose of this Convention is to



ensure universal respect for human rights and equal access for all to education, as well as to eliminate all discrimination in the field of education and promote universal equality of opportunity and equal treatment for all in this area. In addition, Kazakhstan is a party to such international instruments in the field of education and the protection of human rights as the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Lisbon Convention on the Recognition of Qualifications, the International Declaration on Economic, Social and Cultural Human Rights and the Bologna Declaration (Vasilyeva, 2011; “On the main results”, 2012).

Thanks to the policy of comprehensive development of civil society institutions, harmonization of relations between the state and society, constitutional prohibitions and restrictions on more active interaction of state and public institutions have been removed. The education system, which almost completely meets the internal conditions and needs of the country, is also developing (Sapargaliyev, 2006).

Undoubtedly, the state policy in the field of education is aimed at ensuring the realization of the right of citizens to education, but in this area, there are some problems that have a negative and can be said the deterrent effect on the possibility of the full realization of this right. Due to systemic problems, inevitably arising in the conditions of development of legal institutions in the period of formation of statehood, the constitutional rights of citizens cannot be fully realized with regard to equal interests of citizens and the state.

Thus, the full realization of the right to education in Kazakhstan is limited by the following constraints:

- Insufficient financing of education.
- The low status of the teacher’s profession and the quality of training of teaching staff, and as a result, the lack of highly qualified teaching staff.
- Insufficient number of specialists in the protection of children’s rights.

- Weak development of management in education and low informatization of education.
- Insufficient development of the public-private partnership system in education.
- Non-compliance of educational statistics with international standards and its inaccessibility to final recipients.
- Low coverage of pre-school education and training.
- Lack of integration of general secondary and higher education content.
- Unsatisfactory material and technical base of educational organizations.
- Poor quality of educational services.
- Insufficient development of inclusive education.
- Lack of a national qualification system.
- Lack of integration of higher education and science.
- Lack of state educational standards in the system of additional professional education for adults.

It will be important to address the issue of introducing the assessment of legal acts adopted in the field of education to international standards, while considering the interests of citizens, ensuring the efficiency and rationality of legal norms. A comprehensive and high-quality solution of these problems in the implementation of the right of a citizen to education, the search and implementation of timely mechanisms for the protection of rights and freedoms in the field of education, will allow not only the development of civil society, but the competitive development of the country as a member of the international community.

In addition, legislation regulating relations in the field of higher education is inherent in a significant amount of reference rules, which is extremely inconvenient for a law enforcer. In our opinion, the real enforceability of the norms on the right to receive higher education acquires special significance in the conditions of real formation of market relations in the national system of

higher education, the national market for higher education, which, in our opinion, requires its own administrative and legal regulation.

The necessity of normative consolidation of the notion “autonomy of the university” has been identified and justified, and issues related to the competence of universities have also been analyzed. It was proposed at the state level to strengthen the possibility of universities to introduce practical-oriented specializations, considering the requirements of employers to expand the competitive market of educational services. Also, in the article attention is drawn to the questions of the legal status of university teachers.

What higher education institutions are necessary to modern society? Analyzing a question, we can tell:

- With the unique educational programs that consider the specialization. For this purpose, it is necessary to give students the freedom to choose the academic disciplines that are read at other departments. In order to enable them, let us say, along with economic disciplines, to obtain the necessary legal knowledge, and vice versa, with the subsequent issuance of an academic certificate.
- Corroborating the theoretical teaching with practical skills through a dual system of training. As the achievement of competitiveness of high-class specialists should become an advantage of the university in the actual proportion of graduates who are employed by profession.

An important requirement of the employer is the existence of experience of at least one year. This approach encourages the graduate to combine study with work, which becomes a negative factor in the training of a specialist. Universities have the opportunity to solve this problem, to minimize this factor (Birzhanova, 2015). In this case, for example, at law clinics of universities, students have the opportunity to obtain such experience and preferably in different areas of law, here students would practice a certain number of mandatory hours and provide legal assistance to the population as well as receive the desired experience.

Thus, the relations of the subjects of the market of educational services are based on cooperation and competition between competitive universities. Universities need a new format for training specialists. Higher education needs non-standard approaches and lack of formalism and dependence from the public sphere. In order to improve the quality of education of legal specialists, it would be necessary to step aside from standard approaches to education and gain independence from attachment to the state.

The independence of higher education establishments is the basis for creating a non-standardized competitive education where fair competition, business practices, business ethics, openness, and transparency should be observed, and universities, their consumers (trainees and employers) and business partners are interested in it.

Teacher as support is the driving force of higher education institution. The social status of the teacher is the defining factor for the status of a higher education institution. In addition to the above-mentioned problems, there are also negative trends in providing of higher educational establishments with staff: there is no systematic reproduction of teaching staff, moreover, a part-time job is widely practiced (Mulikova, Tazhigulova, & Abildina, 2013). The reason for this is the lack of interest of universities in the system of labor motivation of employees, on the one hand, and on the other hand the excessive administration of the educational process, which does not allow to react flexibly to the achievements of science and technology, and to consider the changed needs of production.

In addition, credit technologies require a serious development of the methodological base. However, lecturers in Kazakhstan universities do not receive payment for writing methodic instructions, but they are obliged to fulfill them, despite the fact that many methodic instructions are authored. As a result, the motivation of lecturers who are busy with the methodic work is reduced (Stepanov, 2012; Ignatova, 2013).

The example of the European studies on this issue can show the investigation of labor motivation in Finland, carried out by Tapani Alcula. He notes that employees spend considerable time at the university, where they work, that's why the social environment and expectations for work are important for employees. The whole universe of such expectations, the author denotes as the concept of "work orientation" (Dryaglov & Kupriyanov, 2014).

According to his theory, there are three basic types of expectations from work such as instrumental, valuable and social. Under the instrumental, Alcula, first of all, understands various kinds of material incentives, for example, ensuring normal living conditions; under the valuable - different kinds of desires, which on the whole can be characterized as moral satisfaction, and under social - the desire to perform a certain function in society via working (Mosolov, 2005).

In the domestic sphere of education, unfortunately, among the main problems is the problem of finding effective ways to improve the motivation system for lecturers, as the human factor is the determining factor in the activity of the educational establishment. In this regard, many government documents set out the main provisions on the support and motivation of lectures. However, due to underfunding of the education sector and the lack of scientifically based models of the motivation of the teaching staff, the problem of the rational organization of the system of the motivation of university lectures remains especially urgent (Zhaitapova & Satyvaldiyeva, 2012).

The social status of teaching staff at Universities is in disadvantaged positions. This trend continues everywhere. Today, in order to live normally, lecturers work at two or even three universities. It is necessary to fulfill scientific activity until late at night to have good scientific indicators. So, in order to meet the requirements and criteria that are put to lecturers, it is necessary to work 15-18 hours a day. Therefore, many scientists prefer to be busy with administrative positions at universities because of a high salary, and there is no necessity to write scientific work, and there is also a real opportunity to move up the career ladder (Aliyev & Kurmanov, 2015).

Many developed countries with the research and scientific universities provide faculty with all necessary opportunities for scientific activities, i.e. a separate room with the access to scientific and information bases, communication facilities, office equipment, etc. This attitude towards the faculty from the side of the university is an important stimulating factor.

After all, the Communiqué of the conference in Leuven/Louvain-la-Neuve (2009) clearly states that doctoral programs should provide high-quality research in various disciplines and are increasingly complemented by interdisciplinary and intersectoral programs. State bodies and institutions of higher education need to make more attractive the career trajectory of the beginners in the research work (Assaul & Kaparov, 2007).

Legislative bases of the legal status of the teacher are not well presented. It should be noted that norms of Law of the Republic of Kazakhstan “On Science” in the question of social security and stimulation of employees in the field of education and science do not work. From a legal standpoint, norms are dead. It is necessary to adopt a number of by-laws in order to realize these norms.

The Law of the Republic of Kazakhstan “On Education” does not have the clear regulation of norms which determine the “status” of the lecturer, in order to provide a constitutional right to education regardless of the forms of ownership of educational establishment. Also, it should be necessary to create tax incentives for social support of students and lecturers by universities, but at this time the Ministry of Education and Sciences of the Republic of Kazakhstan should strictly control the regulations of the current legislation on education (Yessentayeva, Mychko, Potmenskaya, & Shagbanova, 2018).

It should be noted that one of the main subjects of all Bologna reforms is a lecturer of a higher educational establishment. It is he, who plays a key role in the realization of the provisions of the Bologna Process, since it is impossible to effectively implement any modernization changes in higher education without changing sense of justice towards adopting of new provisions (on

organizing the educational process, applying new pedagogical technologies, using academic mobility, etc.). The lecturer can be influenced by the method of recommendation and persuasion, legal education, regular information, and training in innovations, motivation to actively participate in the modernization of higher professional education, which changes higher education and forms the basis for successful implementation of the planned reforms (Butenko, 2007). It is from these problems people must proceed in the analysis and monitoring of the university system.

As practice shows, without proper attention to the teaching staff, the quality of education in higher education establishments cannot be raised. Hence it follows that without creating the conditions, there is the risk to lose the best professors who can write and activate the research activities of the university. And it is very important when universities take the status of research universities. New ways of governing and management in universities are an immediate result of changing governance models. There are more rigorous funding models, better linked with performance and results in public universities. It is a combination of transparency and stimuli for a well-done job. This evolution has not happened at the same speed in all the countries. Nevertheless, the campuses with the best excellence in teaching and research are usually located in those countries with more advanced reforms in the governance of higher education institutions.

Based on the desk research done, it is visible that the synergy of higher education institutions and employers is present in Kazakhstan. A separate direction is given to the definition of the level of services in the educational market, the evaluation of the quality of education through the development of clear rating criteria for the evaluation of universities, their ranking by employers. In this aspect, the experience of Russia is interesting, where an interdepartmental commission has been created to raise the quality of higher legal education. By the decision of this commission, the Bank of Experts was established at the Association of Lawyers of Russia. These experts conduct public accreditation of universities that train lawyers.

The important issue of the evaluation of the quality of education should be the issue of ranking by employers; for example, in the sphere of Kazakhstan legal education, Kazakhstan Association of Commercial Lawyers (KazBAR) could carry out this activity.

There is a lack of transparency and openness of universities activities in Kazakhstan; for example, in the US, the Rectors of the Universities make an annual report on the financial activities of universities in front of professors and students. This practice should be extended to all public and private universities in Kazakhstan. Annual reports of all higher educational establishments of Kazakhstan must be published in the Republican press.

## **CONCLUSIONS.**

The most important areas of development of higher education are:

- Strengthening the leading positions of universities in education of Kazakhstan, expanding the presence of universities of the Republic in the global educational space; support and development of the integration of the higher education system of Kazakhstan into the world educational space; coordination of approaches to state educational standards; expanding the mobility of students, teachers, interns, graduate students and doctors, researchers and specialists within a single educational space; expansion of interstate information exchange on educational issues; development of agreed criteria and technologies for monitoring the state and quality of education, its development trends in the participating states.
- Solving the problem of the quality of specialist training at all stages of undergraduate and postgraduate training by systematically updating the content of educational and professional programs on a fundamentally new scientific and pedagogical basis, ensuring the highest level of specialist training. The focus of the educational process should be methodological training of specialists in each discipline, where not only strength and depth should be of particular importance,



but also the relevance of the foundation on which vocational training is built. The community of fundamental training should create equal opportunities for “education through the whole life”, promote creative development and self-realization of the individual.

This will be possible if the university equips the graduate with a common integral (interdisciplinary) methodology of professional activity. In other words, he will prepare him as a specialist, a methodologist who knows how to claim and use the “apparatus” of each individual discipline in interdisciplinary communication with others as a means of solving problems in cognitive and professional activities.

- Formation of a new, flexible, adequate technology for the organization of the educational process - the credit system, which is understood as the holistic organization of the entire educational process on the basis of credit hours as a unit for measuring the content of educational and professional programs and establishing interdisciplinary equivalents of training content for independent and mobile educational planning process; with the optimal ratio of mandatory classroom and independent work.

- Further development and improvement of the new model of the formation of student contingent in the direction of ensuring accessibility of higher education, considering the principle of “education of choice” and expanding the possibility of choosing the type of university, type of educational and professional programs, forms of education.

- Development of distance-virtual learning as a system that allows a person throughout the active life to get free access to education, the acquisition or change of the profession, increase their skills and satisfy the educational needs of the individual, focused on continuous self-adjustment, self-improvement.

- Developing a new concept of developing fundamental university science and enhancing the role of universities as research institutions by transferring academic institutions, research departments of

certain industries, enterprises of the military-industrial complex to educational institutions in the form of laboratories and departments, as well as by attracting famous scientists teaching activities in the form of the transfer of “know-how”, support for priority themes and areas with major theoretical breakthroughs, with an immediate outcome on on new and emerging technologies; further development of the humanities, that particular of their university essence, which has always been the main pivot of university life.

- Organization of more efficient and precise economic, financial and economic activities to ensure the work of universities and the social protection of each working and studying.
- Bringing the university management system in line with the increasing and ever-changing demands of life.

Practical implications of work are expressed in total the recommendations and offers directed to the improvement of the legislation of the Republic of Kazakhstan on the higher education. The findings from what can be considered as an experiment in the field of educational reform during the rigid economic and social periods can be useful to the public authorities, higher education institutions and the international organizations, which are engaged in processes of reform in education.

The influence of considerable practical recommendations on administrative decisions of legislative, educational bodies and society, in general, is important. It is advised to look at other countries examples, even to different education systems, to see the ways of implementing changes without harming the efficiency of universities. It is important also to hire well-educated professionals with international work and study background, as they have a wider understanding of the differences in educational systems.

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