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Research Article

**LEGAL REGULATION OF THE EDUCATION SYSTEM
IN INTERNATIONAL LAW:
PROBLEMS OF SUSTAINABLE DEVELOPMENT,
SYSTEMATIZATION, INTERPRETATION**

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Education is one of the goals of economic growth and employment of the population, health care, sustainable consumption and production, as well as climate change. In European countries special attention is paid to the quality of education. International organizations aim to strengthen education systems around the world and to propose solutions to the global problems of our time through education. In this article the authors try to consider the content of the main international acts regulating the vocational education system. Based on the analysis, the authors have come to the conclusion that among the basic standards in the field of education the most significant ones are non-discrimination, accessibility of education, mutual recognition of diplomas, equal access of everyone to education. It is advisable in the near future to systematize all international acts or create a single act that would apply to all countries where there would be uniform terms and provisions.

Key words: *law, right to education, international instruments, scholarship, education, international legal regulation*

Introduction

Following the results of the Sustainable Development Summit on September 25–27, 2015, the international community approved the ‘Sustainable Development Goals 2015’. Sustainable Development Goal 4 (hereinafter – SDG 4): ‘Ensure... quality education... for all’, since education is the main factor in the development of society. In addition, education, according to scientists, is one of the goals of economic growth and employment of the population, health care, sustainable consumption and production, as well as climate change (Chernyshova & Fedorov, 2020).

A specialized agency of the United Nations Educational, Scientific and Cultural Organization (hereinafter – UNESCO) as the organization that oversees the implementation of SDG 4¹. Its activities are based on such legal sources as Incheon Declaration and SDG4 – Education 2030 Framework for Action

¹ UNESCO. Education Transforms People’s Lives. Available at: <https://ru.unesco.org/themes/education> [Accessed: 01 October 2021].

(Education 2030 Agenda)². In order to fulfill this task, UNESCO needs to play an important role in the field of education at the global and regional levels, to strengthen education systems around the world and to propose solutions to the global problems of our time through education.

In 2030 the objectives of the 4 Goals in Sustainable Development in relation to higher education are: to achieve (plan):

- 1) equal access to affordable and high-quality vocational and higher education, including university education³,
- 2) increase the number of specialists,
- 3) increasing employment,
- 4) doing business,
- 5) increasing the number of scholarships,
- 6) increasing the number of professionals in developing countries, and much more.

A similar picture, according to the goals of the UN, seeks to create sustainable development, create a balance between social, economic and environmental factors, and develop vocational education.

As the main goal of the Education 2030 Framework for Action affirms that higher education is recognized as a key enabler of SDG 4⁴. The Agenda states: *'the role of higher education in providing access to and supporting opportunities for the development of inclusive societies and a skilled workforce'*.

To ensure that higher education is ready for SDG 4, The 2030 Education Agenda calls on countries to create more articulated and equitable higher education systems that support lifelong learning and offer flexible learning paths for all students, namely academic student mobility between institutions, programs and learning levels⁵.

Education 2030 encourages countries to plan a new education system that will enable learning at any age and at all levels of education. The same is true for people with disabilities, older people, military personnel, pensioners and others (Chernyshova & Fedorov, 2020).

Consequently, the creation of such a higher education system is a rather complicated and long process. The complex nature of the higher education system and institutions requires a dynamic economic, social and cultural movement. The development of policies in different countries for the development of new opportunities in the field of obtaining new knowledge, regardless of age, status, health status, citizenship, can be an article of real benefit for achieving the goals of SDG 4.

Thus, in order to unify higher education and strive for the uniformity of its regulation, states conclude treaties, conventions, agreements to achieve common goals of the educational process (Chernyshova & Fedorov, 2020).

Materials and methods

In the article the basic methods of research and analysis in the field of jurisprudence were applied. Logical methods (analysis and synthesis, induction, deduction, analogy, hypothesis, generalization, systematization, classification), made it possible to analyze the entire set of acts in the system. Special methods were also used: formal-legal, logical-legal, comparative-legal. We analyzed 16 major international instruments based on formal logical research methods.

Different pedagogical issues were addressed by the following scientists: Novak, Barisic & Sacer (2021), Slisane, Lama & Rubene (2021) and others. In the literature the review of normative acts in the field of development of the European education system has not been sufficiently studied at the legal level. Currently, there are separate articles on the topic of the Bologna Process. Thus, Matarranz (2021) examines the stages of the formation of the EHEA, a system for ensuring the quality of education in the countries of the European Higher Education Area.

² Incheon Declaration and SDG4 – Education 2030 Framework for Action. Available at: http://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf [Accessed: 01 October 2021].

³ United Nations. Higher Education. Available at: <https://www.un.org/ru/120927> [Accessed: 01 October 2021].

⁴ UNESCO Office in Almaty (2020) Ensuring Lifelong Learning for all in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan: Country Evidence and Policy Recommendations. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000372898?locale=en> [Accessed: 01 October 2021].

⁵ UNESCO (2016) Unpacking Sustainable Development Goal 4: Education 2030 Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000246300> [Accessed: 01 October 2021].

Fernandez & Madinabeitia (2020) study implications of the Bologna Process on the educational space of Europe. The authors are restrained in the transformation of educational programs and the system of teacher training, their certification, university education 20 years later, they conduct an analysis based on the ratio of quality and innovation.

Results and discussion

General characteristics of international acts regulating the right to higher education. There are many acts regulating the issues of higher education, which contain, *inter alia*, requirements for the content of educational programs, academic mobility, and recognition of diplomas.

Universal Declaration of Human Rights, 1948⁶. Article 26 of the Declaration states that '*education, including higher education, has the character of general accessibility for every person on the basis of the principles of friendship, tolerance and peace*'. The Universal Declaration of Human Rights has laid the foundation for all other legal acts, thus, we can say about its universality and fundamental nature.

Convention against Discrimination in Education, 1960⁷. It is aimed at regulating the financial component of education: equality of tuition fees, payment of scholarships, provision of material assistance to students, provision of various benefits and other forms of support.

International Convention on the Elimination of All Forms of Racial Discrimination, 1965⁸. Regulates issues of prohibition of '*racial discrimination, proclaims equality before the law, without distinction of race, skin color, nationality*' etc.

An important role in the designation of the right to higher education is revealed by the International Covenant on Economic, Social and Cultural Rights, 1966⁹, which like the above documents, draws attention to equal access to higher education and to the financing of the education system. The provision of article 13 of this Covenant can be regarded as the most important formulation of the right to education in an international agreement. The Committee on Economic, Social and Cultural Rights, the body that oversees the implementation of the Covenant, interprets article 13 in its general comment (United Nations. International human rights treaties) and indicates that '*the right to higher education includes the elements of availability (a sufficient number of functioning educational institutions and programs), accessibility (non-discrimination and economic accessibility), quality (the ability to satisfy holders of educational needs) as well as other levels of education*'.

Convention on the Elimination of All Forms of Discrimination against Women, 1979¹⁰ regulates '*the implementation of women's rights to education*'. Articles 10 and 14 of the Convention indicate '*international standards for achieving equality between men and women, namely, equal conditions for choosing a profession; the same exams, the teaching staff of the same qualifications*'.

Convention on the Rights of the Child, 1989¹¹. By virtue of article 28, the importance of public policy regarding children is emphasized also with the aim of '*ensuring the accessibility of higher education for all on the basis of the abilities of each person*' (similarly in articles 28, 29, 30 and 31 of the Convention on the Rights of the Child).

Convention on the Rights of Persons with Disabilities, 2006¹². This legal act regulates inclusive education in order to realize the opportunity to effectively participate in the life of society.

⁶ Universal Declaration of Human Rights, 1948. Proclaimed by the United Nations General Assembly in Paris on 10 December 1948. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> [Accessed: 01 October 2021].

⁷ Convention against Discrimination in Education, 1960. Adopted by the General Conference of the UNESCO on 14 December 1960 Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/DiscriminationInEducation.aspx> [Accessed: 01 October 2021].

⁸ International Convention on the Elimination of All Forms of Racial Discrimination, 1965. Adopted by General Assembly resolution 2106 (XX) of 21 December 1965. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> [Accessed: 01 October 2021].

⁹ International Covenant on Economic, Social and Cultural Rights, 1966. Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> [Accessed: 01 October 2021].

¹⁰ Convention on the Elimination of All Forms of Discrimination against Women, 1979. Adopted by General Assembly resolution 34/180 of 18 December 1979. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> [Accessed: 01 October 2021].

¹¹ Convention on the Rights of the Child, 1989. Adopted by General Assembly res [Accessed: 01 October 2021].

¹² Convention on the Rights of Persons with Disabilities, 2006. Adopted on 13 December 2006 by the General Assembly by resolution A/RES/61/106. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en [Accessed: 01 October 2021].

Charter of Fundamental Rights of the European Union, 2007 (2007/C303/01)¹³. Article 14 provides for access to vocational education and professional development, as well as ‘*access to the establishment of educational institutions with respect for rights and freedoms, as well as respect for religious beliefs, which are supported in accordance with national laws governing their implementation*’.

Convention on the Recognition of Qualifications Relating to Higher Education in the European Region, 1997¹⁴ deals with ‘*issues of interaction in the field of higher education*’. The convention regulates the European education system with a view to creating a common European space (double diplomas).

Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States, 1998¹⁵. According to article 28, countries interact and cooperate in the field of vocational training, including the right to higher education for disabled persons, based on their abilities.

Article 17 of the African Charter on Human and Peoples’ Rights¹⁶, article 41 of the Arab Charter of Human Rights, 2004¹⁷ the right to education is guaranteed. It has been established that states provide citizens with free primary education if states implement basic human rights principles in educational programs.

Article 49 of the Charter of the Organization of American States, 1948¹⁸ also guarantees the right to education.

In the Regional Convention on the Recognition of Studies, Diplomas of Higher Education and Academic Degrees in the States of Asia and the Pacific Ocean, 1983¹⁹ the definition of the term ‘*higher education*’ is given, which means preparation or research work on the basis of secondary education. States are committed to upholding the human rights goals set out in higher education by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the UNESCO Conventions.

Article 2 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950²⁰ guarantees ‘*the right to education. The state assumes obligations for education, bears responsibility to parents*’.

In order to comply with the norms stipulated by international treaties, the Council of Europe adopted acts on cooperation between European countries in the field of higher education. The Convention on the Recognition of Studies, Diplomas of Higher Education and Academic Degrees in the States of the European Region, 1979²¹ ‘*guarantees the mutual recognition of diplomas and educational documentation in the countries participating in the convention*’.

The European Convention on the General Equivalence of Periods of University Study, 1990²² contains a definition of the term ‘*higher education institutions*’, which means ‘*universities and other higher education institutions*’.

In addition, the above documents of the European Union and the Council of Europe, including, laid the foundation for the international integration of higher education in the European space – the Bologna Process. The Bologna Process allowed the creation of a unified legal space for the development of the higher education system (EHEA).

¹³ Charter of Fundamental Rights of the European Union, 2007. Available at: https://www.europarl.europa.eu/charter/pdf/text_en.pdf [Accessed: 01 October 2021].

¹⁴ Convention on the Recognition of Qualifications Relating to Higher Education in the European Region, 1997. Available at: <https://rm.coe.int/168007f2c7> [Accessed: 01 October 2021].

¹⁵ Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States, 1998. Available at: <https://www.dipublico.org/469/convention-on-human-rights-and-fundamental-freedoms-of-the-commonwealth-of-independent-states/> [Accessed: 01 October 2021].

¹⁶ African Charter on Human and Peoples’ Rights, 1981. Available at: <https://www.achpr.org/legalinstruments/detail?id=49> [Accessed: 01 October 2021].

¹⁷ Arab Charter on Human Rights, 2004. Available at: <https://www.ohchr.org/EN/Issues/RuleOfLaw/CompilationDemocracy/Pages/ArabCharter.aspx> [Accessed: 01 October 2021].

¹⁸ Charter of the Organization of American States, 1948. Available at: [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/1CharteroftheOrganizationofAmericanStates\(1948\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/1CharteroftheOrganizationofAmericanStates(1948).aspx) [Accessed: 01 October 2021].

¹⁹ Regional Convention on the Recognition of Studies, Diplomas of Higher Education and Academic Degrees in the States of Asia and the Pacific Ocean, 1983. Available at: <https://en.unesco.org/node/297966> [Accessed: 01 October 2021].

²⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950. Available at: https://www.echr.coe.int/documents/convention_eng.pdf [Accessed: 01 October 2021].

²¹ Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region. Available at: https://nic.gov.ru/en/docs/foreign/conventions/UNESCO_3084 [Accessed: 01 October 2021].

²² European Convention on the General Equivalence of Periods of University Study, 1990. Available at: <https://rm.coe.int/168007b3d2> [Accessed: 01 October 2021].

Conclusion

From the analysis of the above legal documents it can be concluded that the right to education in Europe, namely the right to access to free education, is approved and exists at the legislative level in all regions of Europe, precisely in those countries that have ratified the above acts. All of the above international treaties indicate that the possibility of obtaining higher education depends on the free will of a person, his abilities and capabilities, the desire of everyone. It is noteworthy that regardless of the legal act, its level and the subject of legal regulation, Europe supports the development of education at all ages and years of a person's life, thus, creating conditions for continuous improvement of a person's qualifications. Analysis of doctrinal sources and regulations have showed that in European countries, especially in France, special attention is paid to the quality of education. All of the above acts can be systematized depending on the criterion – the quality of education, since that the quality of education is a fundamental principle in defining SDG 4, enshrined in separate UN documents.

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