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Legal framework for expanding the autonomy of universities in Kazakhstan

In the article is the legal issue of increasing the level of autonomy and independence of universities examined. The scientific interest and purpose of the study is to study the phased development of autonomy, managerial and financial independence of higher educational institutions of the republic, taking into account the legislative and regulatory approach. In this article are key mechanisms for enhancing the autonomy and managerial independence of universities, developed step by step within the context of the existing legal framework, presented. Relevant approaches that help formulate the current stage of this vector, which is being implemented in accordance with the Strategic Development Plan of the Republic of Kazakhstan until 2025, are proposed. This is an important condition for the successful implementation of the third modernization and the transition to a new model of economic growth through new technologies and digital transformations. The main research methods are historical analysis, a comparative and analytical approach to the study of stages of development and assessment of the existing legal regulation of the processes of expanding the autonomy of higher educational institutions. The work identifies systemic strategic changes envisaged and planned at the fourth stage of development, and also examines issues of effective legal and institutional support in the context of expanding freedom, autonomy and managerial and financial independence of higher educational institutions.

Keywords: educational law, quality of education, autonomy, independence, quality mechanisms, economic growth, educational policy, managerial freedom.

Introduction

Today, the legal basis for the managerial and financial independence of universities are key parameters of the educational process, in accordance with the principles of the Bologna Process. This approach is objectively determined for a more rapid, flexible and adequate provision of rapidly changing global and national economies with qualified personnel. Attention is paid to the historical development of this issue in sovereign Kazakhstan. We have identified three past stages of such development, associated with the country's gaining independence, entry into the Bologna process, and amendments to the Law of the Republic of Kazakhstan "On Education", adopted in 2018 and consistently implemented in the country's universities.

One of the key global trends and important indicators of integration processes is the expansion of internationalization and academic freedom, as well as increasing the managerial and financial independence of universities. The managerial independence of educational institutions is especially necessary for their effective development and improvement of the quality of educational services.

The main goal of the study is to consistently study the main stages of development of higher educational institutions and the transition to autonomy and managerial independence. Among the important tasks facing the study, the following are identified:

- study the theoretical aspects of the concepts of freedom and managerial independence of higher educational institutions from the point of view of the legal field;
- identify important vectors for the development of universities: gaining independence and expanding freedom of management and financial independence of universities;
- determine directions for improving the quality of education in conditions of managerial independence

In the context of the ongoing transformation of the education system, flexibility in training and a practice-oriented approach in preparing graduates of higher educational institutions are essential to provide the necessary qualified personnel.

This system should ensure the training of personnel with the necessary skills and competencies that meet the needs of the labor market. Therefore, it becomes important to preventively improve the content and

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methodology of education, the quality of training of specialists, and increase the competitiveness and demand of graduates. In this regard, improving the quality of education depends on the managerial and financial independence of universities and their efficiency.

Methods and Materials

The article used methods of historical analysis and a step-by-step approach, which made it possible to determine the classification of the stages of progressive transition and transformative changes of universities into independent structures with autonomy and managerial independence.

Based on the comparative analysis of the stages of development, the existing legal regulation of the processes of expanding the freedom of higher educational institutions, qualitative changes were substantiated, which made it possible to have a positive impact on improving the quality of education.

Results

Three main areas of university freedom were legally defined: academic, managerial and financial. Thus, academic freedom is the acquisition by universities of the authority to independently determine the content of educational programs to ensure the quality of education.

In the context of modern development of the knowledge economy, the need for qualified specialists and new professions is constantly growing. Therefore, it is necessary for universities to quickly respond to the challenges and demands of the labor market. The law proposed to expand the freedom of universities by 65 %–85 %. In this regard, universities have received the opportunity to independently develop educational programs. Today, educational programs for each specialty are developed independently by the university, taking into account the needs of the labor market. Through the unified information system of education, the Register of educational programs has been created with the aim of forming a unified database of educational programs.

In this regard, the Classifier was introduced to change the structure of the classifier in the areas of personnel training, within the framework of which universities develop their educational programs with the needs of the labor market. In accordance with this classifier, areas of personnel training are licensed, the university receives a license for a specific area of training specialists and independently develops and implements educational programs. At the same time, external assessment of the quality of higher education is carried out through the mechanism of independent accreditation.

Currently, the Register of Accreditation Bodies includes 12 agencies: 6 Kazakhstani and 6 foreign. The activities of the agencies are based on international standards. Thus, in order to create a competitive environment between Kazakhstani and foreign accreditation agencies, it was proposed to make amendments in terms of expanding the network of accreditation agencies recognized in the European and Asian continents, which will further improve the existing accreditation institution. As part of expanding the academic freedom of universities, students are given the right to determine their educational trajectory.

The academic independence of universities is closely interconnected with the university management system. Since state universities are regulated by legislation in the sphere of state property, which is a burden for them and contradicts their development strategy, mission and main goals. Therefore, it was necessary to change the organizational and legal form of universities by law. These changes allow universities to independently resolve issues of recruitment, form a student contingent in terms of training areas and create an effective academic structure for universities.

It should be noted that universities in the form of non-profit organizations have important advantages: corporate governance standards are aimed at using profits only for the further development of universities.

Therefore, in Kazakhstan, the norms for the transformation of state and national universities into non-profit joint-stock companies with 100 % state participation have been enshrined in law, and the mechanism for transforming private universities into commercial organizations has been changed. Although this does not become a mandatory condition.

However, according to the Business Code, when changing republican state enterprises into non-profit joint-stock companies, universities are limited in certain types of commercial activities. In this regard, in order to resolve this issue, an article on the regulation of the activities and competence of educational organizations was included in the Law of the Republic of Kazakhstan “On Education”, which was proposed according to the initiative of deputies within the framework of the draft law’s provisions.

According to its norms, universities are granted the right to engage in thirteen types of commercial activities and determine the main competencies of the educational organization. Universities also received the legislative right to:

- form an endowment Fund for Higher Education;
- create legal organizations for scientific activities by using extra-budgetary funding; open a start-up company;
- use additional sources of funding for the development of universities;
- open branches of foreign universities.

In the context of expanding academic and managerial independence, universities are offered flexible financing, which is aimed at increasing the efficiency of using budgetary and extra-budgetary funds, and developing the material and technical base and social support.

Therefore, it was important to move away from financing the specialty during the terms of study and move to credit financing without taking into account the periods of study. Therefore, the law provides for the granting of new powers to the Ministry of Science and Higher Education of the Republic of Kazakhstan to approve the rules for financing universities within the framework of the credit technology of education and the formation of state orders. In this regard, changes have occurred in the approval of the state educational order for the training of specialists with higher education from one year to three, which effectively affects the distribution of the state order.

In order to expand access to higher education, in accordance with the regulation of financial policy in universities, taking into account the interests of socially vulnerable groups of the population, the cost of education on a commercial basis is determined by the university independently.

Discussion

In the legal field of higher and postgraduate education in the Republic of Kazakhstan, it is possible to identify important vectors for the development of universities: gaining independence and expanding the freedom of management and financial autonomy of universities.

The first vector was determined by the Republic of Kazakhstan gaining independence and sovereignty, and the development of the education system in the context of an open economic policy. At this time, the main steps were taken in the institutional transformation of the educational system.

At the end of the 20th century, unique international educational projects appeared in the education system of Kazakhstan: The “Bolashak” Presidential Scholarship Program, aimed at training talented youth at the world’s top universities (1993) [1]. This program was designed to ensure the formation of an intellectual hub of new personnel. During these years, new laws and regulations on education were adopted. Private educational organizations began to develop in education. The educational services market began to form in a competitive environment, the level of independence of universities increased. The private education sector became part of the academic community, enshrined in the legislative and regulatory framework.

The second vector of expansion of the administrative autonomy of universities was defined in 2010 with the entry of the Republic of Kazakhstan into the Bologna process. According to the developed and approved “State Program for the Development of Education of the Republic of Kazakhstan for 2011–2020”, for the first time in the legal aspect, specific planning positions on the autonomy of higher education institutions were formulated. “The program developed the principles of autonomy of educational organizations, which define the independence of educational, scientific, financial, international and other activities and laid the groundwork for a gradual transition to university autonomy across the country” [2].

The third vector of obtaining the managerial independence of universities was defined in 2015 with the adoption of the step-by-step program “The Nation’s Plan — 100 Concrete Steps”. This is noted in the “State Program for the Development of Education for 2016–2019”. The Nation’s Plan, according to the 78th step, defines the step-by-step expansion of the academic and managerial independence of universities and, in accordance with international practice, the transformation of private universities into non-profit organizations [3].

In 2018, the above-mentioned development vectors were already partially implemented in accordance with the amendments and additions to the Law of the Republic of Kazakhstan “On Education”. At this time, the main mechanisms for the formation and expansion of the managerial and financial independence of the country’s universities were developed [4]:

- the special status of educational organizations was legally substantiated: Nazarbayev University, as a national and state one with the definition of features and competencies;

- the content of educational programs that are independently determined by the university has expanded;
- the step-by-step implementation of academic and managerial independence in the country's universities has begun;
- the implementation and development of Strategic Management in educational organizations;
- the refusal of state certification of educational organizations for accreditation;
- attracting foreign specialists to the Top management of universities;
- development of an internal university education quality system;
- development of Academic Policy for universities;
- election of university rectors.

The fourth vector of development of managerial independence and autonomy of the republic's universities is aimed at developing a plan for the Strategic Development of the Republic of Kazakhstan until 2025 to carry out the third modernization of the country in order to implement the tasks of increasing economic development and the quality of life of the population.

The primary objective by 2025 is to achieve high-quality, sustainable economic growth through the implementation of digital innovations, the development of human capital, the enhancement of educational service quality, and the improvement of graduates' competitiveness in the labor market [5].

Today, special attention is paid to the development of human resources and education. The following transitions have been identified as fundamental changes:

- from traditional educational programs to digital literacy, development of new skills and competencies in demand in the labor market, to a balance in the distribution of human resources between regions;
- from a local focus on the level of education to increasing the demand and competitiveness of domestic education in the international market;
- from formal education to the constant acquisition of new competencies and skills for personal development throughout life.

Such strategic changes must be systemic and effectively supported from the institutional and legal side.

In order to implement strategic development directions, the Law of the Republic of Kazakhstan "On Amendments and Supplements to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Expanding the Academic and Managerial Independence of Higher Education Institutions" was developed and adopted [6].

The adopted normative legal act confirms important steps towards fundamental changes and additions that were introduced simultaneously into 19 legislative acts of 4 codes and 15 laws.

When considered in its entirety, it is essential to highlight the following legal aspects, which are regarded as the most fundamental. For example, the Law of the Republic of Kazakhstan "On Education" is aimed at legal support for the implementation of the most important strategic documents for the development of Kazakhstan in the area of responsibility of the education system, including the Strategy "Kazakhstan-2050", the Nation Plan "100 Concrete Steps", "Five Social Initiatives of the President of the Republic of Kazakhstan", the Strategic Development Plan of the Republic of Kazakhstan until 2025 and other documents aimed at developing the education system.

The main direction of development of the education system is the expansion of academic autonomy of universities. In this regard, universities have received new opportunities. The authorized body provides autonomy in determining the academic load, remuneration, in the implementation of scientific research after doctoral programs, granting academic leaves, transfer and reinstatement of students, etc. Universities with a special status have received autonomy in developing the content of educational programs taking into account the requirements of the State Educational Standard, as well as awarding doctoral degrees. All these changes in universities occur with the acquisition of managerial and financial autonomy.

It is important to grant the right to commercial universities to become non-profit joint-stock companies. In these universities, boards of directors are created, a corporate management system is created, and the opportunity for commercial activity is created to support their development.

For state universities, an important emphasis on independence is that accreditation services are removed from state procurement. In this regard, universities independently select accreditation agencies to conduct the procedure of external assessment of educational services. Therefore, the independence of universities in choosing accreditation agencies for state educational organizations, previously noted in the Law, has become a reality. A number of general legal measures have also been defined with this.

For example, the transition from specialties to graduate training areas, which specifically corresponds to the UNESCO International Standard Classification of Education (ISCED) and allows universities to respond more quickly and adequately to the needs of the labor market. In this regard, a new type of university licensing has been introduced, based on training areas.

Conclusions

Thus, the amendments and additions to the regulatory documents, together with the provisions of the Strategic Development Plan of the Republic of Kazakhstan until 2025, are aimed at further expanding the autonomy and managerial independence of the country's universities. This will effectively affect the quality of educational services, increasing the demand for higher education in the republic.

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Қазақстандағы жоғары оқу орындарының автономиясын кеңейтудің құқықтық негізі

Мақалада жоғары оқу орындарының автономиясы мен дербестік деңгейін арттырудың құқықтық мәселесі қарастырылған. Зерттеудің ғылыми қызығушылығы мен мақсаты заңнамалық және нормативтік тәсілді ескере отырып, республиканың жоғары оқу орындарының дербестігін, басқарушылық және қаржылық дербестігін кезең-кезеңмен дамытуды зерделеу. Автор мақалада құқықтық өрісті ескере отырып, кезең-кезеңмен дамуға сәйкес жоғары оқу орындарының дербестігі мен басқарушылық дербестігін кеңейтудің маңызды тетіктерін келтірген. Ұсынылған тәсілдер Қазақстан Республикасының 2025 жылға дейінгі Стратегиялық даму жоспарына сәйкес жүзеге асырылып жатқан осы вектордың ағымдағы кезеңін тұжырымдауға көмектеседі. Бұл үшінші жаңғыртуды сәтті жүзеге асырудың және жаңа технологиялар мен цифрлық трансформация арқылы экономикалық өсудің жаңа моделіне көшудің маңызды шарты. Негізгі зерттеу әдістері тарихи талдау, жоғары оқу орындарының автономиясын кеңейту процестерін қолданыстағы құқықтық реттеуді бағалау және даму кезеңдерін зерттеуге салыстырмалы-аналитикалық тәсіл. Жұмыста дамудың төртінші кезеңінде көзделген және жоспарланған жүйелік стратегиялық өзгерістер айқындалған, сондай-ақ жоғары оқу орындарының еркіндігін, дербестігін және басқарушылық және қаржылық тәуелсіздігін кеңейту жағдайында тиімді құқықтық және институционалдық қамтамасыз ету мәселелері зерделенген.

Кілт сөздер: білім беру заңы, білім сапасы, автономия, тәуелсіздік, сапа механизмдері, экономикалық өсу, білім беру саясаты, басқарушылық еркіндік.

Правовые основы расширения автономности вузов в Казахстане

В статье рассматривается правовой вопрос повышения уровня автономности и самостоятельности университетов. Научный интерес и цель исследования заключается в изучении поэтапного развития автономности, управленческой и финансовой самостоятельности высших учебных заведений республики с учетом законодательного и нормативного подхода. В статье представлены ключевые механизмы расширения автономности и управленческой самостоятельности вузов, разработанные в соответствии с поэтапным развитием и с учетом правового поля. Предлагаются актуальные подходы, которые помогают сформулировать современный этап данного вектора, который реализуется в рамках Стратегического плана развития Республики Казахстан до 2025 года. Это является важным условием для успешного проведения третьей модернизации и перехода к новой модели экономического роста на основе новых технологических и цифровых преобразований. Основными методами исследования являются исторический анализ, сравнительный анализ и аналитический подход к изучению этапов развития, а также, оценка, сложившегося правового регулирования процессов расширения автономности высших учебных заведений. В работе определены системные стратегические изменения, предусмотренные и планируемые на четвертом этапе развития, а также рассмотрены вопросы эффективного правового и институционального обеспечения в условиях расширения свободы, автономности, управленческой и финансовой самостоятельности высших учебных заведений.

Ключевые слова: образовательное право, качество образования, автономность, самостоятельность, механизмы качества, экономический рост, образовательная политика, управленческая свобода.

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