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**Viacheslav Blikhar**

D.Sc. in Philosophy, Professor, Director of the Institute of Management, Psychology and Security of Lviv State University of Internal Affairs, Lviv, Ukraine;  
e-mail: [blikharv@ukr.net](mailto:blikharv@ukr.net)  
ORCID: [0000-0001-7545-9009](https://orcid.org/0000-0001-7545-9009)  
(Corresponding author)

**Serhii Babii**

PhD Student of the Department of Theory and History of State and Law, Khmelnytsky University of Management and Law named after Leonid Yuzkov, Khmelnytsky, Ukraine;  
ORCID: [0009-0004-7534-6142](https://orcid.org/0009-0004-7534-6142)

**Hlib Lieonov**

Student, Technical University of Hamburg, Germany;  
ORCID: [0000-0002-7104-9253](https://orcid.org/0000-0002-7104-9253)

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## LEGAL REGULATION OF EDUCATIONAL RELATIONS IN UKRAINE

### ABSTRACT

Special attention to the issue of legal regulation of educational relations in society today paid. After all, the legal basis of such relations is laid in the Constitution of Ukraine and a large number of laws and other legal acts that regulate and regulate the conduct of the educational process in the state.

The article develops an approach to the justification of educational law, which regulates and implements the right to education and receiving educational services guaranteed by the Constitution of Ukraine. In the course of the study, the need to distinguish educational relations into two blocks was substantiated: 1) directly educational, to which it is proposed to attribute the direct transfer of knowledge to the recipient of educational services; 2) relations related to educational ones. Among a number of such relations, attention is focused on labour, administrative, economic, family, financial, tax, budget relations, etc.

The main characteristics of educational relations are singled out, namely: multilateralism, taking into account the variety of relationships that students of education have in the process of receiving educational services (this includes relations with the head of a higher education institution, scientific and pedagogical and pedagogical workers, parents and relatives, as well as legal entities that can pay for education); subject-centrism of a higher education seeker who has the right and undertakes to obtain an education; individuality and inalienability of the process of obtaining education since the right to education cannot be delegated to another subject; functional variety and multi-stage implementation.

This study can become a basis for improving the normative and legal field of regulation of the educational sector.

**Keywords:** educational law, legal regulation, the field of education, educational relations, normative legal acts in the field of education

**JEL Classification:** K30, K39

### INTRODUCTION

Education in the 21st century plays a leading role as the driving force of a civilized society. Legal regulation of educational relations is one of the central issues in the construction of the educational policy of the state and an element of the national ideology that shapes the domestic political situation in the country and affects the international relations of the state. And in this case, education is an object of legal influence, and educational relations are a peculiar subject of legal regulation.

Legal regulation of the field of education in the 21st century should be aimed at its development and not be an obstacle. Undoubtedly, the constitutional regulation of education issues plays a significant role in this process since education is a fundamental human right. Society should be clearly aware that the constitutional right to education is not limited to the provision: "A person/citizen has the right to education." This constitutional right runs through all socio-economic and cultural rights defined in the Constitution as a red thread, since a person can realize, for example, his right to work only after he has acquired elementary knowledge, profession, qualification, etc. The construction of the economy also depends on what is contained in the basis of educational state policy.

Paragraph 3 of the preamble to the Law of Ukraine "On Education" specifies that this law regulates social relations arising in the process of realizing the constitutional right of a person to education, the rights and obligations of individuals and legal entities participating in the realization of this right, and also defines the competence of state bodies and local self-government bodies in the field of education [1].

The scope of legislative and by-laws that regulate educational relations is constantly expanding. Therefore, we can talk about a complex field of educational legislation already formed in our country. In addition, this thesis is confirmed by the order of the Ministry of Justice of Ukraine dated 02.06.2004 No. 43/5 "On the approval of the Classifier of the branches of the legislation of Ukraine", where the branch "education" is included under the code 220.000.000.

With the declaration of independence of Ukraine, a number of laws of direct effect were adopted for the development of education. As noted in the National Report on the State and Prospects of the Development of Education in Ukraine (2016), these laws defined the conceptual and strategic orientations of education, established the basic norms of its functioning, requirements for the quality of education at various levels, legitimized the functions of state standards, and legislatively regulated the management relations of the main educational institutions. links, etc. [2, p. 21].

During 1991-2002, the activity of state policy in the field of education increased significantly. In 1996, the Constitution of Ukraine was adopted, and amendments and additions were made to the Law of the Ukrainian SSR "On Education". In addition, framework laws on education (1991, 1996) and scientific and scientific and technical activities (1991) were adopted, laws of Ukraine "On Vocational and Technical Education" (1998), "On General Secondary Education" (1999), "On out-of-school education" (2000), "On preschool education" (2001), "On higher education" (2002), "On childhood protection" (2001), "On social work with children and youth" (2001), and as well as a large number of decrees and orders of the head of state and resolutions and orders of the government.

Therefore, it can be argued that Ukraine is one of the few countries in the post-Soviet space at that time (early 2000s) that practically completed the formation of the legislative framework for education in a relatively short time. But, unfortunately, the degree of mutual coherence of normative legal acts in the field of education cannot be called high. We also state that effective mechanisms for the implementation of the legislative and regulatory framework have not been developed.

## LITERATURE REVIEW

In recent years, individual issues of legal regulation of education have been highlighted in their works by Ukrainian scientists: V. Andrushchenko, B. Andrusyshyn, V. Astakhov, R. Valeev, L. Vasechko, V. Zaichuk, V. Kremen, E. Krasnyakov, M. Kurko, S. Nikolayenko, S. Stetsenko, H. Dorokhova, M. Ibragimov, V. Potapenko, V. Syrykh, V. Spaska, M. Fedorova, V. Shkatulla, D. Yagofarov, and others. Among Western researchers, it is worth highlighting such as Deb Kunz, Gracien Lover, Charles L. Glenn, Jan De Groof, and others.

E. Krasnyakov defined the field of educational legislation as a set of normative legal acts (their individual provisions) that regulate social relations in the field of education. At the same time, emphasizing that "the field of legislation does not mean any set of acts, but only those where all acts are closely interconnected and interdependent" [3, p. 97].

It should be noted that the issue of the formation and existence of the field of educational law is still quite debatable.

In Soviet times, educational law was considered a sub-branch of administrative law. The position that educational law is a sub-branch of administrative law is held by some lawyers, referring to the prevailing point of view of M. Vladimirskyi-Budanov in pre-revolutionary law. According to N. D. Yanchuk, the outstanding scientist considered educational law as a special independent part of administrative law, singled out the subject - the specific activity of the state to create conditions for the effective functioning of educational institutions [4, p. 46-56.] Leading administrative scientists, recognizing the possibility of independent functioning under educational law, do not, however, consider the issue of its allocation to an independent branch of law.

Proponents of a different position regarding the nature of educational law are O. Ivani, T. Korzh-Ikaeva, M. Syrykh, V. Filippova, V. Shkatulla, V. Tsymbalyuk, D. Yagofarov, and others. [5; 6; 7]. These researchers consider educational law as an independent branch of law with its subject and specific method of legal regulation [8, p. 92].

Thus, V. Shkatulla expressed an opinion about the possibility of considering educational law as a complex field of law. He emphasizes the fact that educational law as a complex field is characterized by the fact that the norms included in its subject at the same time remain in their own branches of law, such as constitutional, labour, civil, financial, administrative, etc., and the core of education law is pedagogical law [9, p. 14].

Some researchers consider educational law to be a purely conditional concept, arguing that it is necessary to talk about legislation on education - an array of normative acts of a complex nature. For example, N. Davydova calls it a "complex legal entity", the norms of which regulate various relations: regarding the management of an educational institution and quality control (administrative law); regarding the collection of taxes and fees (financial law); regarding the conclusion of contracts and registration of copyright relations (civil law); regarding the hiring and dismissal of teaching staff (labour law); regarding working pensioners and parents on childcare leave (right to social security); regarding the commission of crimes by participants in the educational process (criminal law). The definition "field of educational law" carries a large legal content load and must correspond to a number of features that are not actually inherent to it, instead, "legal field of education", "a number of regulatory documents", "educational legislation", "educational laws", "educational sector", "normative and legal field of education", "regulation of relations in the field of education" should be used. An uncontrolled increase in the fields of law may lead to the emergence of the field of student law, the field of student law, and the field of pedagogical law in the future, - notes the author [10, p. 26].

R. Valeev [11], V. Bonyak [12], K. Romanenko [13], K. Bogomaz and O. Shelemovska [14] are convinced that the field of educational legislation functions in the absence of a corresponding field of law, which in turn is due to heterogeneity social relations in the field of education.

In her dissertation study, Ya. Tytska proposes to consider educational legal relations from the standpoint of a communicative approach and to define as regulated by the norms of educational law the communicative relationship that arises between a person studying and/or his legal representatives and a pedagogical worker within the boundaries of an educational institution in connection with this person's mastery of knowledge, skills, competences and other intangible spiritual goods, which are determined by state education standards [15].

S. V. Bogachev notes that the subjects of educational legal relations are, on the one hand, persons who exercise the right to education, acquire education and are pupils, students, cadets, externs, interns, clinical residents, graduate students, adjuncts, i.e., education seekers, on the other hand - pedagogical, scientific-pedagogical workers. In addition to the mentioned subjects, parents of students (other legal representatives) should also be included among them; educational institutions; founders of educational institutions; education management bodies; educational institution management bodies; employees of educational institutions (this refers to other employees who are not pedagogical and scientific-pedagogical), etc. [16, p. 110].

V. Shcherbyna notes that economic entities exercise their economic competence on the basis of the right of ownership, the right of economic management and the right of operational management in accordance with the definition of this competence in economic and legal legislation [17, p. 116]. Scientists D. Zahirnyak, O. Kratt, and M. Zahirnyak defend the opinion of the need to introduce a solidarity-subsidiary type of relationship in the educational sphere regarding financial issues, particularly in higher education [18].

## AIMS AND OBJECTIVES

The purpose of the article is to substantiate the foundations of legal regulation of educational relations in the subject of constitutional regulation. To achieve the goal, the following tasks are solved in the article:

- to find out the essence of educational relations in the globalized world;
- to substantiate the peculiarities of educational law in the subject area of legal regulation.

The object of research is legal relations regarding education. The subject of the study is the interdisciplinary legal institute of educational law.

## METHODS

The theoretical basis of the article was the works of foreign and domestic constitutional scholars and representatives of other branches of law.

The application of a whole range of both general and special methods of scientific research made it possible to achieve reasonableness, persuasiveness, and reliability of the author's results and conclusions. Thanks to the logical method, the main terms and concepts defining the content of this article were analyzed. The systematic method was used in clarifying the place of educational relations in the subject area of legal regulation, identifying the characteristics of educational

relations. Such logical methods of research as induction and deduction made it possible to generalize the features of the interdisciplinary legal institute of educational law.

## RESULTS

The Law of Ukraine "On Education" does not provide for the definition of educational relations. However, it is indicated that the education system is a set of education components, levels and degrees of education, qualifications, educational programs, education standards, licensing conditions, educational institutions and other subjects of educational activity, participants in the educational process, governing bodies in the field of education, as well as normative legal acts regulating relations between them. From this, it can be concluded that direct educational relations are the relationship between the subjects of educational activity - a physical or legal entity (educational institution, enterprise, institution, organization) that conducts educational activity - and the recipients of education - pupils, students, cadets, trainees, interns, post-graduate students (adjuncts), other persons who receive education by any type and form of education, during which knowledge is transferred, abilities, skills, competences are formed.

The legal basis of direct educational relations is Article 53 of the Constitution of Ukraine, which establishes that everyone has the right to education. In addition, a component of this foundation is Article 54 of the Basic Law of the State, which guarantees citizens the freedom of literary, artistic, scientific and technical creativity, the protection of intellectual property, their copyrights, moral and material interests arising in connection with various types of intellectual activity, since the intellectual creative activity is aimed at obtaining new knowledge and finding ways to apply it, the main types of which are fundamental and applied scientific research. Thus, the legal foundation of direct educational relations is constitutional provisions.

The main features of educational relations, the basis of which are constitutional provisions, are as follows:

- educational relations are multilateral, since the educational institution (represented by the head of the institution), pedagogical, scientific-pedagogical employees, other employees (who are not pedagogical, scientific-pedagogical), parents, other natural/legal entities act as counterparties for the student of education, who pay for education and others. It should be emphasized that educational relations arise only when we speak for the subject of the provision of educational services (educational institution, educational institution), because, for example, tutoring already acts as a civil-law relationship for the provision of educational services;
- in such relations, the central subject is the person acquiring an education, who is the authorized party and undertakes the obligation to acquire an education;
- in the researched relationship, obtaining an education has a personal, inalienable character, and this right cannot be delegated to another subject, that is, the institution of representation, power of attorney is impossible. At the same time, obtaining an education has a volitional, intellectual character;
- such relations are multi-stage and diverse in composition (for example, admission to an educational institution, taking exams, the educational process itself, obtaining a diploma, etc.).

It should also be noted that currently, the judicial practice in Ukraine confirms that disputes about the issuance of diplomas to those persons who studied under a contract are resolved by administrative courts in the order of administrative proceedings. An example of this is the resolution of the district administrative court of the city of Kyiv dated 21.04.2008 No. 3/299, in which the court recognized as public law "legal relations that arise between a student and a university regarding state attestation and assignment of an educational qualification level, as well as the issuance of the appropriate diploma of the state model" [19].

For a more detailed understanding of educational legal relations, let's try to characterize their composition. The object of educational legal relations can be recognized as the content of education, i.e. the system of knowledge/skills/competencies/beliefs/views/values/experiences/abilities that are acquired/formed/developed by the students of education. In addition, the object of educational legal relations can include participation in a competition for admission to an educational institution; admission/transfer/renewal/deduction from/to the educational institution; obtaining a document on the obtained educational level, etc. [20, p. 115].

It is necessary to distinguish between the factual and legal content of educational legal relations. The actual content is the activity of education, teaching, and scientific management, which is carried out by pedagogical and scientific-pedagogical workers, coaches, trainers, and the activity related to obtaining an education, which is carried out by the students of education. The actual content of other educational relations can be the activity of submitting applications and documents for admission (participation in a competition for admission) to an educational institution, etc. [21].

At the same time, the legal content includes specific rights and obligations of the participants in educational legal relations. In the process of analyzing the composition of specific educational legal relations, it becomes obvious that these relations are different and arise between different subjects (for example, between a student and a teacher, a student and the dean's office, between a graduate and an examination board, etc.).

The second group includes a whole array of relations, including administrative, civil, labour, budgetary, land and others, which are aimed at ensuring the educational process in one form or another. At the same time, it should be emphasized that all these relations also indirectly pass through constitutional provisions. This is evidenced by their characteristics.

1. Administrative relations are those relationships that arise between subjects of management and subordination in the field of education. Thus, part one of Article 53 of the Constitution of Ukraine establishes that the state ensures the availability and free of charge of preschool, full general secondary, vocational and technical, and higher education in the state and communal educational institutions. Part 2 of Article 8 of the Law of Ukraine "On General Secondary Education" defines ways of implementing the specified constitutional provision. Thus, every child has the right to receive primary and basic secondary education in the most accessible and closest educational institution (its structural subdivision) to the place of residence. In order to properly and effectively determine and fix the service territory for an educational institution, local executive authorities or local self-government bodies keep records of children of preschool and school age, taking into account the capacity of each educational institution and the demographic situation in the relevant territory and, if necessary, ensure the creation of additional classes. At the same time, the number of primary school classes should ensure primary education for all children living in the service territory of the relevant educational institution [22; 36].

2. Labour relations are relationships that arise when educators enter into labour relations. Moreover, this applies both to the subjects of the provision of educational services and to the students of education, since these categories of employees have certain peculiarities [23, p. 230]. The Constitution of Ukraine establishes that everyone has the right to work, which includes the opportunity to earn a living by work that he freely chooses or freely agrees to (Article 43). The state creates conditions for the full exercise of the right to work by citizens, guarantees equal opportunities in choosing a profession and type of work, implements programs of vocational training, training and retraining of personnel in accordance with public needs.

It is known that the peculiarities of the labour relations of educators are reflected in the special laws of Ukraine: "On Education", "On Higher Education", "On Scientific and Scientific and Technical Activities", "On General Secondary Education", "On Vocational and Technical Education" and in other subordinate legal acts. So, for example, the first part of Article 56 of the Law of Ukraine "On Higher Education" establishes that the working time of scientific and pedagogical workers is 36 hours per week (reduced working time).

3. Civil relations arise when it comes to the provision of educational services. According to Part 3 of Article 53 of the Constitution of Ukraine, citizens have the right to obtain higher education free of charge in state and communal educational institutions on a competitive basis [36]. At the same time, citizens are not deprived of the right to obtain higher education if they did not pass the competition or received a failing grade for budget education in the rating. According to Part 16 of Article 44 of the Law of Ukraine "On Higher Education", the basis for enrolling a person in studies is the fulfilment of the requirements of the Conditions of admission to study for higher education, the rules of admission and the conclusion of a study contract between the institution of higher education and the applicant (with the participation of parents or legal guardians representatives - for minor entrants), in which the rights and obligations of the parties may be detailed in accordance with the standard form approved by the Cabinet of Ministers of Ukraine [36]. This contract may not limit the rights or establish additional obligations of the students of education, which are not provided for by this Law or other legal acts. In the case of enrollment in studies at the expense of natural (legal) persons, a contract is additionally concluded between the institution of higher education and the natural (legal) person who orders a paid educational service for himself or another person, assuming financial obligations for its payment. Resolution No. 735 of the Cabinet of Ministers of Ukraine dated August 19, 2020 "On the approval of a standard form of a contract for training in a higher education institution" approved a standard form of contract, the subject of which is training in a higher education institution [24].

In accordance with the second paragraph of part 6 of Article 73 of the Law of Ukraine "On Higher Education", a standard contract is concluded between a higher education institution and a natural (legal) person who orders a paid educational service for the duration of education. The second paragraph of part 6 of Article 73 of the Law of Ukraine "On Vocational Pre-Higher Education" establishes that a standard contract concluded between a vocational pre-higher education institution and an individual and/or legal entity for the period of study is approved by the central executive authority in the field of education and science. Such an agreement was approved by the order of the Ministry of Education and Science of Ukraine dated 07.09.2020 No. 1113 "On approval of the Model Agreement on the provision of paid educational services for the



training of specialists." The subject of this contract is the customer's financial obligations to pay for the educational service provided to the applicant by the institution [25]. We can state that these contracts are civil contracts by their legal nature.

4. Family relations in terms of the obligation to facilitate the provision/acquisition of education in the family. Part 1 of Article 53 of the Constitution of Ukraine states that complete general secondary education is mandatory. Evading the fulfilment of one's duties regarding raising a child and/or ensuring that the child obtains a full general secondary education is grounds for deprivation of parental rights (Clause 2, Part 1, Article 164 of the Family Code of Ukraine) [26]. And the Law of Ukraine "On general secondary education" even provides such a form of obtaining general secondary education as homeschooling.

5. Economic relations arise because educational institutions are business entities, as evidenced by the second part of Article 22 of the Law of Ukraine "On Education" and the Law of Ukraine "On Licensing Types of Economic Activities" dated March 2, 2015, No. 222-VIII, where Article 7 states that educational activity is included in the list of types of economic activity that can be licensed.

Thus, part six of Article 55 of the Economic Code of Ukraine enshrines the right to open branches, representative offices, and other separate subdivisions, but without creating a legal entity. In civil legislation, in particular, in part two of Article 95 of the Civil Code of Ukraine, it is also established that branches and representative offices are not legal entities. They are endowed with the property of the legal entity that created them and act on the basis of the provisions approved by it [27]. Analyzing the already mentioned Article 7 of the Law of Ukraine "On Licensing Types of Economic Activities", it can be concluded that the issuance of a license provides for the granting to a business entity of the right to conduct a type of economic activity or part of a type of economic activity that is subject to licensing, through the adoption by the licensing body of a decision on issuance of a license, which is recorded in the license register [28]. According to the second part of Article 43 of the Law of Ukraine "On Education", educational activities are carried out on the basis of a license issued by a licensing authority in accordance with the legislation [1].

6. Financial relations arise when funds are attracted to a special fund, distribution, use of funds (general and special) funds. These relations are regulated by the rules of financial law and the rules of special education laws. For example, the first part of Article 71 of the Law of Ukraine "On Higher Education" establishes that financing of state institutions of higher education is carried out at the expense of the state budget under the conditions of a state order for the payment of services for the training of specialists, scientific and scientific-pedagogical personnel and at the expense of other sources. not prohibited by law, in compliance with the principles of targeted and effective use of funds, publicity and transparency in decision-making.

Thus, this type of relationship determines the role of the state as both a regulator and a customer of educational services. As a regulator, the state, with the help of powerful instruments, orients the behaviour of consumers of educational services to the needs of the labour market, and the activities of higher education institutions to financial autonomy. As a customer, the state assumes part of the responsibility for financing higher education in the form of a state order but requires higher education institutions to take similar responsibility for attracting other sources of funding for educational services. This is stated in part three of Article 53 of the Constitution of Ukraine.

Thus, analyzing special educational laws, we can state that each of them has provisions on the peculiarities of financial relations in the educational sphere. Thus, in the Law of Ukraine "On Education", Chapter X "Financial and Economic Relations in Education" regulates general issues regarding funding in education. Chapter VIII "Economic relations in the field of general secondary education" of the Law of Ukraine "On comprehensive general secondary education" regulates the issue of financing the system of general secondary education. And in the Law of Ukraine "On Professional (Vocational-Technical) Education", Chapter IX Financial and Economic Relations in the Field of Professional (Vocational-Technical) Education, financial issues in this field of education are regulated.

7. Tax relations that are entered by entities providing educational services. According to clause 166.3. and subsection 166.3.3 of Article 166 of the Tax Code of Ukraine dated December 2, 2010 No. 2755-VI, as amended, the taxpayer has the right to include in the tax deduction in the reduction of the taxable income of the taxpayer as a result of the reporting tax year, calculated in the form of wages, reduced taking into account the provisions of Clause 164.6 of Article 164 of the Tax Code of Ukraine, or in the form of dividends, except for the amounts of dividends that are not included in the calculation of the total monthly (annual) taxable income, such expenses actually incurred by him during the reporting tax year in the form of the sum of funds paid by the taxpayer in favour of domestic institutions of preschool, extra-curricular, general secondary, professional (vocational-technical) and higher education to compensate the cost of obtaining the appropriate education by such a taxpayer and/or a member of his family of the first degree of kinship and/or a person over whom

guardianship or care, or which is arranged for a foster family, a family-type orphanage, if such a tax payer is designated as a guardian, custodian, foster father, foster mother, foster father, foster mother, respectively [29].

The constitutional human right to education established by Article 53 of the Constitution of Ukraine is realized in social relations, where the rights and obligations of individuals and legal entities participating in the realization of this right are implemented, as well as the competence of state bodies and local self-government bodies in the field of education is determined, regulates The Law of Ukraine "On Education" and special education laws. They define the structure and types of preschools, after-school, general secondary, professional (professional-technical) and higher education institutions.

According to Article 22 of the Law "On Education", a legal entity has the status of an educational institution if the main type of activity is educational activity.

The rights and obligations of an educational institution, provided for by the Law of Ukraine "On Education" and other laws of Ukraine, also belong to a natural person - an entrepreneur or a structural unit of a legal entity under private or public law, the main type of activity of which is an educational activity.

That is, special educational laws give reasons to include preschool, after-school, general secondary, professional (vocational-technical) and higher education institutions, the main type of activity of which is an educational activity, for the purpose of obtaining a tax discount for education. Thus, the implementation of the constitutional right to education also takes place through the provisions of the Tax Code of Ukraine.

8. Social security relations of participants in educational legal relations also have their origins in constitutional provisions. Thus, the second part of Article 53 of the Constitution of Ukraine establishes that the state ensures the provision of state scholarships and benefits to pupils and students.

In addition, special educational laws also contain provisions on the social security of participants in educational legal relations. Article 57 of the Law of Ukraine "On Higher Education" states that scientific and pedagogical, scientific-pedagogical workers have the right to social and pension security, have the right to receive housing, including official housing, in accordance with the procedure established by law, as well as to receive preferential long-term loans for construction (reconstruction) and purchase of housing in accordance with the procedure established by law. Thus, from October 1, 2022, the state launched the "Affordable Mortgage" program, according to which scientific, scientific and pedagogical workers can get a soft loan at 3% for 20 years with an initial payment of 20% for the purchase of housing [30].

9. Budgetary relations entered by educational institutions, their structural subdivisions, education management bodies, etc. Proceeding from the second part of Article 53 of the Constitution of Ukraine, which states that the state ensures the development of preschool, full general secondary, extracurricular, vocational, higher, and postgraduate education, various forms of education, it is obvious that this is not possible without fair remuneration. Justice, as a value orientation of consciousness, primarily assumes that the reward corresponds to the labour contribution of the employee and, as a rule, is not associated with the solution of general social problems, but local ones (at the level of a separate enterprise, industry) [31]. That is, the effective implementation of their work function by pedagogical, scientific-pedagogical workers is the key to the successful development of all levels of education. Thus, in order to implement the powers delegated to local self-government bodies in the field of education in accordance with Article 103-2 of the Budget Code of Ukraine, educational subvention is provided to local budgets for the purpose of financial support.

In accordance with the first part of the aforementioned article, the educational subvention is directed to the payment of labour with accruals of teaching staff in the following types of educational institutions:

- primary schools, gymnasiums (except preschool units in such institutions), lyceums;
- special schools;
- institutions of specialized education: art, sports, military (naval, military-sports), scientific lyceums, lyceums with enhanced military physical training;
- orphanages, educational rehabilitation centres, inclusive resource centres;
- institutions of professional (vocational and technical) education of state and communal ownership in terms of providing expenses for obtaining a complete general secondary education;
- institutions of vocational pre-university education and colleges of state and communal ownership in terms of ensuring expenses for obtaining a full general secondary education [32].

10. Land relations that are entered by subjects of the provision of educational services during the implementation of educational relations. In order for the state to be able to provide what is guaranteed by Article 53 of the Constitution of Ukraine, namely the development of preschool, full general secondary, extra-curricular, professional and technical, higher

and postgraduate education, various forms of education, in the first part of Article 80 of the Law of Ukraine "On Education" it is noted that the property of educational institutions and institutions, organizations, enterprises of the education system includes immovable and movable property, including buildings, structures, land plots, communications, equipment, vehicles, official housing, etc. And in part two of the same article, it is stated that the procedure, conditions and forms of acquisition of land rights by educational institutions are determined by the Land Code of Ukraine. For example, with the aim of the best possible regulation of land issues, paragraph 3 of the Decree of the President of Ukraine "On Regulations on the National Institution of Ukraine" dated 16.06.1995 No. 451/95 recommends that local self-government bodies not remove land plots for state and public needs from land, provided for use by national institutions (institutions) of Ukraine [33].

11. Relations regarding copyright and related rights, which participants of educational relations, subjects of provision of educational services enter into when it comes to copyright on educational and methodological products created in the process of the professional and pedagogical activity, as well as regarding the most common forms (plagiarism, piracy) infringement of copyright.

Thus, Article 7 of the Law of Ukraine "On Copyright and Related Rights" stipulates that the subjects of copyright are the authors of the works specified in the first part of Article 8 of the said law, and other natural and legal persons who have acquired rights to the works in accordance with the deed or the law [34]. That is, the subjects of copyright in educational institutions are pedagogical and scientific-pedagogical workers (individuals) of the educational institution, in particular teachers, masters of industrial training, methodologists and other participants in the educational process, during which educational and methodological products are created and used. These are persons who own personal non-property and/or property intellectual property rights to educational and methodical products. Legal entities under both public and private law can be the subjects of copyright. Note that these persons acquired the rights to a work of science, art, etc. in the process of contractual relations or in accordance with the law. Thus, based on the above, it can be concluded that the copyright for the work is acquired not by the educational institution, but by the state in the form of a represented institution (derivative subject of rights).

## DISCUSSION

The debate about the independence or non-independence of the field of educational law will continue for a long time. And taking into account the relevance of the development of educational law and the processes taking place all over the world, this will be the subject of more than one dissertation study.

We defend the opinion that educational law is an interdisciplinary institution, and we will try to prove it in the course of the analysis of educational relations in the subject area of legal regulation. First of all, we propose to divide relations into two groups. The first is directly educational, and the second group includes those related to them.

We do not agree with R. Valeev, who proposes to single out four segments (types) of legal relations, which can claim the status of a subject of educational law, or at least directly border on it, among the entire volume of relations regarding education. Thus, he singles out relations in the field of education, in the education system, educational and pedagogical relations. At the same time, the scientist claims that pedagogical legal relations should be distinguished from pedagogical activity, which is not the object of educational law and legal influence in general. To this activity of a teacher, the scientist refers to the activity of forecasting, designing, constructing the pedagogical process [35].

We believe that it can be called anything and divided into many segments, but it is appropriate to talk about directly educational relations (transfer of knowledge from the subject of educational services to the acquirer) and those related to them.

## CONCLUSIONS

Thus, all the types of relations mentioned in the article constitute the subject of the interdisciplinary institute of educational law. This subject is heterogeneous, and this may be the basis for scientific discussions regarding the lack of independence of the subject of the specified institute. However, examples and characteristics of relations in the article prove that the subject of an interdisciplinary institute of education law is. It is peculiar, multifaceted and heterogeneous. Therefore, educational relations in the subject area of legal regulation occupy a special place, and this is explained by the fact that the legal foundation of these relations is laid in constitutional provisions, which then find their expression in special education laws and other normative legal acts.



A profession is a kind of labour activity of a person who possesses a complex of special knowledge, practical skills, obtained through special education, training or experience, which make it possible to carry out work in a certain field of production. Therefore, before choosing a profession, a citizen should enter educational relations.

From the analysis, it can be concluded that there are certain peculiarities in the current legislation that regulate the economic and legal aspects of the provision of educational services, since at the level of the law, educational activity is allocated to a separate sphere of economic relations.

Educational law should be understood as an interdisciplinary legal institution that regulates social relations of the implementation of the constitutional right to education and related relations.

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Бліхар В., Бабій С., Леонов Г.

## ПРАВОВЕ РЕГУЛЮВАННЯ ОСВІТНІХ ВІДНОСИН В УКРАЇНІ

Питанню правового регулювання освітніх відносин у суспільстві сьогодні приділяється особлива увага. Адже юридичне підґрунтя таких відносин закладене в Конституції України й великій кількості законів та інших нормативно-правових актів, які регламентують і регулюють провадження освітнього процесу в державі.

У статті розвинуто підхід до обґрунтування освітнього права, яким урегульовується й за допомогою якого реалізується гарантоване Конституцією України право на освіту та одержання освітніх послуг. У ході дослідження обґрунтована необхідність розмежування освітніх відносин на два блоки: 1) безпосередньо освітні, до яких запропоновано відносити безпосередню передачу знань здобувачеві освітніх послуг; 2) відносини, пов'язані з освітніми. Серед низки таких відносин увагу зосереджено на трудових, адміністративних, господарських, сімейних, фінансових, податкових, бюджетних відносинах тощо.

Виокремлені основні характеристики освітніх відносин, а саме: багатосторонність, ураховуючи різноманітність взаємозв'язків, які виникають у здобувачів освіти в процесі одержання освітніх послуг (сюди відносяться відносини з керівником закладу вищої освіти, науково-педагогічними й педагогічними працівниками, батьками та близькими, а також юридичними особами, які можуть оплачувати навчання); суб'єктоцентризм здобувача вищої освіти, який має право й бере на себе зобов'язання здобувати освіту; особистісність та невідчужуваність процесу здобування освіти, оскільки право на освіту не можна делегувати іншому суб'єктові; функціональна різноманітність та багатоетапність реалізації.

Це дослідження може стати підґрунтям для вдосконалення нормативно-правового поля регламентації освітньої галузі.

**Ключові слова:** освітнє право, правове регулювання, галузь освіти, освітні відносини, нормативно-правові акти в царині освіти

**JEL Класифікація:** K30, K39