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ORGANIZATION OF THE HIGHER EDUCATION SYSTEM ACTIVITIES IN UKRAINE UNDER THE CONDITIONS OF THE MARTIAL LAW: LEGAL ASPECT

This article is devoted to the establishment of the chronology of legal decision-making by state authorities regarding the organization of higher education system activities and ensuring the protection of the educational process participants.

The article also identifies challenges and threats to the activity of higher education institutions in modern conditions. It was established that the main challenge for the system of higher education was the military aggression of the Russian Federation against Ukraine, as a result of which there was a threat to the life and health of higher education

institutions participants, limited access to education, destroyed educational infrastructure, loss of a significant share of potential entrants and students of higher education, as well as the part of scientific and pedagogical workers and scientists due to the departure of Ukrainian citizens abroad. Another challenge for the higher education system is reorientation in the training of qualified personnel due to changes in the needs of the war and post-war times for the restoration and development of the national economy and social life.

The challenges provoked the emergence of threats to the development of higher education in the future. In particular, as a result of the departure of Ukrainian citizens abroad, significant losses are felt in the staff of higher education institutions and their contingent, and this also leads to a decrease in the potential for the formation of state orders in the coming years. In addition, as a result of the work curtailment of some Ukrainian manufacturing enterprises and scientific organizations and institutions, the base for conducting educational and pre-diploma practice for those seeking higher education is narrowing.

Keywords: *state administration in higher education, organizational mechanism of state administration, legal regime of martial law, legal regulation, normative legal acts, training of higher education specialists, challenges and threats.*

Problem setting. Higher education is a source of socio-economic and cultural development of society. It provides individual, professional development of the individual and the future specialist, creates the intellectual, industrial and spiritual potential of society. The right to education in Ukraine is guaranteed by Art. 53 of the Constitution of Ukraine, according to which citizens have the right to obtain higher education in state and communal institutions of higher education (hereinafter referred to as higher education institutions) on a competitive basis. The network of higher education institutions in Ukraine is quite extensive. At the beginning of the 2021-2022 academic year, 386 institutions were operating in the country, of which 242 were state-owned, 41 were communal, and 103 were private. 1.1million students of higher education studied in them

in various forms of education (full-time, evening, correspondence, distance learning, external) [2]. However, on February 24, 2022, as a result of Russian military aggression against Ukraine, the usual educational process at the higher education institutions was disrupted. In those territories of the country bordering the aggressor country, a significant part of the population, among them students of higher education, scientific and pedagogical staff and employees of higher education institutions, were forced to relocate to another territory or to go abroad altogether, escaping from active hostilities. Therefore, there was a need for legal regulation of the educational process by the state.

Recent research and publications analysis. Theoretical and methodological aspects of state management in education are highlighted in the works of M. Azhazha, V. Beschastny, L. Belova, M. Bilynska, V. Bulba, L. Gaevska, L. Gren, N. Didenko, S. Dombrovska, V. Kovregina, N. Kolisnichenko, V. Kremen, I. Lopushynskyi, V. Lugovoi, R. Naumenko, L. Parashchenko, L. Polyakova, L. Prokopenko, V. Sadkovy, V. Sychenko, S. Khadzhiradeva, L. Khizhnyak, I. Khozhilo, S. Shevchenko, I. Shpektorenko and others. The issues of organizing the realization of the right to education in the conditions of the armed conflict in Ukraine are highlighted in the works of G. Dubrovynskyi, M. Zakirov, Z. Kuznetsova, G. Mazur, M. Mendzhul, O. Polyakova, V. Selyukov, and others. The main provisions of these scientific works became the basis for the study of the issues defined in the article.

Paper objective – is to analyze the chronology of legal decision-making by state authorities regarding the organization of the higher education system and ensuring the protection of participants in the educational process; to identify challenges and threats to the activities of higher education institutions in modern conditions.

Paper main body. Legal regulation as a tool of state administration is the activity of the state "to ensure influence on social processes by establishing mandatory legal norms (rules) of the legal entities behavior, compliance with which is ensured by the possibilities of public opinion and the use of the power of the state" [1]. Legal regulation is a productive, regulatory and organizational influence on social relations, behavior and activities of people, which is carried out by establishing, changing or canceling legal

norms [3]. Thus, legal regulation is a component of state administration and exclusively a function of the state, which acts as a guarantor of law, including the right of citizens to education. It was this right that was violated one of the first by the Russian aggressor. Millions of children and youth of Ukraine were deprived of the opportunity to study in educational institutions, and education workers did not have the opportunity to carry out their professional activities, because the active phase of the military aggression of the Russian Federation against Ukraine threatened the lives and health of people. In addition, it was educational institutions that became the target of Russian missiles. In the first days of the war, Ukraine lost administrative control over a part of its territory that was occupied by the enemy. In the country, the problem of ensuring citizens' access to education has worsened, the continuous educational process has been disrupted. The normalization of the educational process and the development of mechanisms for the protection of its participants required legal intervention by the state.

The starting document for the legal regulation of education process during the war became the Decree of the President of Ukraine "On the introduction of martial law in Ukraine" dated February 24, 2022. Martial law was introduced throughout the country and it was noted that "constitutional rights and freedoms of a person and a citizen, provided for Articles 30-34, 38, 39, 41-44, 53 of the Constitution of Ukraine" may be limited [7]. According to the Law of Ukraine "On the legal regime of martial law", on the territory of the country military administrations were formed to "ensure, together with the military command, the introduction and implementation of the legal regime of martial law, defense, civil protection, public safety and order, protection of critical infrastructure, protection of rights, freedoms and legitimate interests of citizens" [9], and which should also manage educational institutions.

The Ministry of Education and Science of Ukraine (hereinafter - MES) is the main body in the system of central bodies of executive power, which ensures the formation and implementation of state education policy, so on the first day of the war it issued an order "On the formation of the Situation Center of MES" (order of MES No. 229 dated 02.24.2022), the main task of which was to determine the activities of MES during the period

of martial law. The very next day, MES recommended to temporarily stop the educational process in educational institutions and to announce a two-week vacation. This was a necessary measure, because in the first days of the war, part of the country's territory was under occupation, more than 10 million people were forced to leave their place of permanent residence, among them the largest share was women with children. The first month of the war was shockingly tragic for the Ukrainian people. As a result of the hostilities in the first month of the war, 144 children were killed, more than 220 were injured, 659 educational institutions were damaged by bombing and shelling, and 74 were completely destroyed [4].

Educational institutions found themselves in new realities, which actually became headquarters for the organization of assistance to the population and the military. Some students and scientific and pedagogical workers joined the ranks of the Armed Forces of Ukraine and territorial defense, some became volunteers. Some of the participants in the educational process continued their studies, and some left their place of permanent residence, escaping from the war.

As a result of forced migration, heads of educational institutions did not always have information about pedagogical and scientific-pedagogical employees (their location, stay, and emotional, psychological and physical condition), so some of the heads tried to independently solve financial issues related to the remuneration of employees, who were sent on forced vacations, sometimes without pay. Responding to the appeal of teaching and scientific-pedagogical workers as to their leaves without payment in connection with the introduction of the legal regime of martial law in the country, MES categorically forbade managers to force employees to write such statements for unpaid leaves (Letter of M No. 1/3292-22 entered on February 28, 2022). However, realizing that part of the pedagogical and scientific-pedagogical workers were forced to leave their homes and for various reasons cannot conduct classes, it was proposed to grant leave with or without salary at the voluntary request of the employee in accordance with the requirements of labor legislation. Later, clarifications were provided to the heads of educational institutions regarding the organization of payment of employees during the suspension of

education (letter of MES No. 1/3370-22 dated March 7, 2022). It was noted that the payment of labor to the employees of educational institutions, in which studies are suspended, is carried out in the amount of the average salary.

At the beginning of March, in accordance with the order of MES "On some issues of the organization of the work of institutions of professional and higher education during martial law" (order of MES No. 235 of 07.03.2022), heads of educational institutions were ordered to take measures to ensure the protection of participants of educational process, employees and property of educational institutions; evacuate the participants of the educational process to a safe place if necessary; to ensure special conditions of study for those students of higher education who are in the ranks of the Armed Forces of Ukraine or in units of the territorial defense, or engaged in volunteer activities.

During the first two months, the legal basis for the evacuation of the higher educational institutions was developed. Ukraine, unfortunately, already has some experience in relocating higher educational institutions from the occupied territories [6]. In 2014, when the Russian Federation occupied part of the Ukrainian territory for the first time, it was necessary to evacuate the Ukrainian higher educational institutions to the territory controlled by Ukraine. In March-April 2022, it was necessary to evacuate, first of all, those higher educational institutions that were in the occupied territory from the first days of the war, where it was no longer possible to carry out activities, as well as those that were in the zone of constant shelling from the enemy. It is worth noting that according to MES, as of August 1, 2022, 2,200 educational institutions were affected, including 225 which were completely destroyed, and 1,975 partially damaged. Among the completely destroyed there are 9 institutions of specialized professional higher education and 7 higher educational institutions. Regionally, educational institutions of the Donetsk, Luhansk, Kharkiv, Chernihiv, Mykolaiv, and Zaporizhia regions were the most affected. Currently, the share of destroyed educational institutions is 6.5%, but their number continues to grow [5].

In order to create safe studying conditions, the State University of Biotechnology, Eastern Ukrainian National University named after Volodymyr Dal, Luhansk Medical

University, Donetsk National Technical University and others were evacuated to safer areas of the country. A total of 29 higher educational institutions and 64 separate structural units were evacuated from Donetsk, Luhansk, Kherson, some communities of Zaporizhzhya and Kharkiv regions. Today, one cannot be sure that the evacuation process is complete, because the war continues, and the enemy is hitting these very objects. However, all destroyed or damaged buildings can be restored, but it is unfortunately impossible to bring back those people who died in the war. Currently, there are no data on the number of victims of the war among participants in the educational process of higher education institutions, however, we understand that such cases are unprecedented.

On March 10, MES recommended to institutions of vocational pre-university and higher education to resume the educational process and start preparations for the end of the academic year (letter of MES No. 1/3417-22 dated March 10, 2022). It was proposed for those seeking higher education in non-graduation courses to make the necessary changes to individual study plans (transferring, if necessary, part of the educational components to the following periods of study), and for those seeking higher education in graduation courses to ensure the implementation of the study plan, conduct attestation and issue documents on attainment of appropriate level of education; in exceptional cases, if it is impossible for a higher education applicant to complete a qualifying (bachelor's) work, to conduct an attestation exam.

In March, in some regions of Ukraine, where the security situation allowed, the educational process was resumed. The form of educational process was determined by military regional administrations and educational institutions. The state guaranteed the organization of the educational process in a distance format or in any other form that is the safest for its participants. In addition, scientific and pedagogical workers are guaranteed the preservation of their workplace and average earnings (Law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding State Guarantees in Conditions of Martial Law, State of Emergency or State of Emergency" dated March 15, 2022, No. 2126-IX).

Realizing that the 2022 admission campaign may be at risk of disruption, at the

beginning of March MES announced its intention to cancel the external independent assessment, the unified entrance exam, the unified professional entrance test and proposed to conduct the admission campaign using electronic systems without the participation of applicants. MES has developed three scenarios for admission to higher education institutions, which do not provide for the conduct of external independent assessment, since it is not possible to do so during martial law. However, this initiative actually divided the society into those who support MES and those who are in favor of holding an admission campaign according to the usual procedure. It should be noted that the initiative of MES regarding the abolition of external independent assessment and the simplification of the mechanism of admission to the master's program was supported by the Union of Rectors of Ukraine, and the usual procedure of the admission campaign was overwhelmingly supported by educators – representatives of the western part of the country. This debate was put to an end by the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine in the Field of Education", adopted on March 24, 2022, which stated that in 2022 admission to higher education institutions will be carried out in a special manner, namely, the external independent assessment, the unified entrance exam, the unified professional entrance test were cancelled. However, the MES was instructed to develop a special procedure for the admission of applicants in 2022 within a month.

At the beginning of April, MES already presented developed proposals for conducting admission campaign 2022 under the martial law. Thus, for admission to the budget form for obtaining a bachelor's degree, a multi-subject test is introduced, which contains 20 closed-ended questions from three subjects – Ukrainian language, mathematics, history of Ukraine, and applicants must also write a motivation letter. For the contract form of education only an application and motivation letter must be submitted, except for medical, humanitarian and social sciences, law and journalism. To obtain a master's degree, the following is introduced: for the budget form – passing a professional exam and submitting a motivation letter; for the contract – taking the master's comprehensive test (foreign language, law) and submitting a motivation letter. The motivation letter of the applicant is suggested to be used for rating when entering the

higher education institution. Thus, the algorithm of admission campaign 2022 was developed and explained to the public.

There have also been changes in approaches to state order for specialists with higher education. Priority fields for training specialists of national importance were determined – primarily engineering and technical, pedagogical, natural sciences, etc. The total volume of the state order in 2022 amounted to more than 188,000 people. For full-time education, the indicator was set at almost 173,000 people. For the organization of the new academic year under the conditions of the legal regime of martial law, MES prepared information for all higher education institutions on the specifics of the organization of the new 2022-2023 academic year, provided recommendations regarding the priority steps to prepare for it, and focused attention on the organization of the security of participants in the educational process.

Since part of the country's population was and, unfortunately, is in dangerous zones (in territories occupied by the enemy and territories of hostilities), it should be noted that a number of documents were adopted for the purpose of obtaining psychological help and explaining the rules of conduct to the participants of the educational process in conditions of military aggression, in particular:

- "Regarding the prevention of human trafficking in conditions of military aggression" (letter of MES No. 1/3663-22 dated March 23, 2022);
- "About methodical recommendations "Psychological first aid. Algorithm of actions" (letter of MES No. 1/3872-22 dated April 4, 2022);
- "On the implementation of preventive measures among children and youth in the conditions of martial law in Ukraine" (letter of MES No. 1/5119-22 dated May 13, 2022);
- "On the prevention and counteraction of domestic violence in the conditions of martial law in Ukraine" (letter of MES No. 1/5735-22 dated May 30, 2022);
- "On recommendations on eliminating the risks of human trafficking in connection with the war in Ukraine and the humanitarian crisis" (letter of MES No. 1/6355-22 dated June 14, 2022);

— "Regarding the prevention and counteraction of sexual violence related to the armed aggression of the Russian Federation on the territory of Ukraine" (letter of MES No. 1/6885-22 dated June 22, 2022);

— "Regarding the activities of the psychological service in the education system in the 2022/2023 academic year" (letter of MES No. 1/8794-22 dated August 23, 2022) and others.

As for those seeking higher education, MES is trying to develop various mechanisms for their support. In particular, Ukrainian higher education students can continue their studies at European universities. They also have the opportunity to join the educational and scientific programs of foreign universities. Special study conditions are established for those students of higher education who are in the ranks of the Armed Forces of Ukraine or territorial defense – individual schedules are drawn up, academic leaves are issued. Recently, the "Procedure for the transfer to state-ordered studies of certain categories of applicants of vocational pre-university and higher education, who are enrolled in institutions of vocational pre-university and higher education until 2021 (inclusive), to places financed by the funds of individuals and/or legal entities" was approved. The document defines the mechanism of transfer to state-sponsored places in state-owned and privately-owned higher education institutions that train state-sponsored students of certain categories of higher education students enrolled in such institutions until 2021, including to places financed by private and /or legal entities [8]. Four categories are defined, which are granted the right to transfer to places of state order, and the algorithm of this transfer is also explained. The procedure was approved on October 28, it just entered into force, but it is already causing a debate in Ukrainian society, in particular, there are questions about the reasons for refusal by the heads of higher education institutions to applicants of higher education if they meet a certain category; about the possibilities for transfer of students of higher education to other higher education institutions and to other specialties, etc.

Conclusions. Summarizing all of the above, it can be stated that the main challenge for the higher education system was the military aggression of the Russian Federation

against Ukraine, in the result of which there was a threat to the life and health of the participants of higher education institutions, a limited access to education, a destroyed educational infrastructure, loss of a significant part of potential entrants and students of higher education as well as of pedagogical workers and scientists due to the departure of Ukrainians abroad. Another challenge for the higher education system is reorientation in the training of qualified personnel due to changes in the needs of the war and post-war times for the restoration and development of the national economy and social life.

The challenges provoked the emergence of threats to the development of higher education in the future. In particular, as a result of the departure of Ukrainian citizens abroad, significant losses are felt in the personnel composition of the higher education institutions and their contingent, and this also leads to a decrease in the potential for the formation of state orders in the coming years. In addition, as a result of the curtailment of the work of a share of Ukrainian manufacturing enterprises and scientific organizations and institutions, the base for conducting educational and pre-diploma practice for those seeking higher education is narrowing.

Regarding legal regulation, we would like to note that within a short period of time, the state authorities of Ukraine formed the principles of legal regulation of the higher education system during the period of martial law. However, since the war in Ukraine continues, the legal regulation of the sphere of higher education in the conditions of martial law remains an ongoing process. The state needs to respond in a timely manner to the challenges and threats that arise today with various educational institutions and their participants. However, it should be noted that, despite constant rocket attacks, bombings, loss of life and destruction of educational institutions, higher education institutions continue their activities, the graduation and admission campaign in higher education took place thanks to the timely development of the appropriate regulatory and legal framework.

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