

FINANCING OF PRIVATE HIGHER EDUCATION INSTITUTIONS: ADMINISTRATIVE AND LEGAL FEATURES

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Annotation. The article examines the administrative and legal features of financing private higher education institutions, which is an important direction in the development of the modern higher education system of Ukraine. Particular attention is paid to the issues of interaction between private higher education institutions and the state in the process of obtaining financial support, because traditionally the private education sector was considered as one that functions mainly at the expense of founders' funds and tuition fees. However, current trends in the field of educational policy indicate the need to form transparent and fair mechanisms for state funding for all institutions, regardless of their form of ownership, especially in connection with the expansion of social guarantees and support programs for education seekers.

The paper examines the mechanisms of state regulation and control of the activities of private higher education institutions, in particular, licensing of educational programs, accreditation procedures, financial monitoring, compliance with educational standards and transparency of financial reporting. The legal grounds and conditions under which private institutions can apply for state funding are analyzed: participation in budget programs, receipt of funds for the implementation of targeted educational projects, grants, state orders or certificate funding. The procedures for the distribution of financial resources are separately disclosed, emphasizing the need to ensure competition and equality of rights of private higher education institutions compared to public ones.

An important component of the study is the coverage of the specifics of administrative disputes in the field of financing private institutions. In particular, typical conflicts that arise between private HEIs and state authorities regarding the distribution of budget funds, the legality of inspections, appealing the results of accreditation or denial of access to financial programs are considered. The author justifies the need to improve the regulatory framework in order to ensure equal conditions for the functioning of institutions of different forms of ownership, increase the transparency of procedures and minimize the grounds for disputes, which will be a significant step towards the formation of an effective and fair system of financing higher education in Ukraine.

Key words: private higher education institutions, education financing, state regulation, administrative and legal mechanisms, administrative disputes.

1. Introduction.

The development of the higher education system in Ukraine is characterized by the coexistence of state and private higher education institutions, which necessitates the formation of effective administrative and legal mechanisms for their functioning, in particular in matters of financing. Private higher education institutions (hereinafter referred to as HEIs) are an important component of the education system, complementing the state sector and creating a competitive environment in the educational services market.

The issue of financing private HEIs is becoming particularly relevant in the context of reforming the education sector, implementing the principles of autonomy of higher education institutions and diversifying their sources of financing. At the same time, there are certain legislative restrictions and administrative barriers that affect the ability of private HEIs to receive state funding alongside state institutions.

2. Analysis of scientific publications.

Among Ukrainian scholars working on the issue of higher education financing, several key names stand out. Kovalenko Y. together with Vitrenko L. analyze in detail the mechanism of financing HEIs in Ukraine, explore alternative sources of funds and propose models of educational lending and endowment funds. Their work creates an important basis for understanding the financial structure of private and public institutions. Hryhorash O. focuses on comparing private financing in OECD countries and in Ukraine, emphasizing the need to adapt international experience. Her analysis helps to outline the role of private sources in the overall system. Other researchers, such as Yashchuk T., touch on the diversification of HEI income sources, which is key in the context of private universities. Although a significant part of the work is devoted to the general financing system, their conclusions are important for developing adequate models of support for private HEIs in Ukraine.

3. The aim of the work is to study the administrative and legal features of financing private higher education institutions in Ukraine, identify problematic aspects of state regulation and control of their activities, as well as analyze the mechanisms for obtaining state funding and the specifics of administrative disputes in this area.

4. Review and discussion.

State regulation of the activities of private higher education institutions is carried out through a system of regulatory legal acts and administrative procedures that determine the conditions for their creation, functioning and termination of activity. According to the Law of Ukraine «On Higher Education», private higher education institutions are established in the form of private institutions and have equal rights and obligations with state institutions in conducting educational activities [1].

The main subjects of state regulation and control of the activities of private higher education institutions are the Ministry of Education and Science of Ukraine, which forms and implements state policy in the field of higher education, the National Agency for Quality Assurance in Higher Education, which carries out accreditation of educational programs, and the State Education Quality Service, which conducts institutional audits of educational institutions.

A feature of the administrative and legal regulation of the activities of private HEIs is the combination of general requirements for higher education institutions with additional requirements for private institutions. Thus, according to the Law of Ukraine «On Higher Education», private HEIs, in addition to general licensing and accreditation procedures, must also comply with the requirements of the legislation on business companies or public associations, depending on the organizational and legal form of the founder [1].

State control over the activities of private HEIs is carried out through licensing of educational activities, accreditation of educational programs, institutional audit, financial audit and inspections, and monitoring of the quality of education.

It is worth noting that state regulation of the financial and economic activities of private HEIs has certain peculiarities compared to state institutions. In particular, private HEIs have the right to independently determine the sources of financing and directions for the use of funds, but in compliance with the legislation on non-profit organizations, since educational institutions cannot have the goal of making a profit [2].

The legislation of Ukraine establishes certain restrictions on the distribution of income of private HEIs, in particular, prohibits the distribution of received income (profits) or part thereof among founders, employees (except for payment of their labor, calculation of a single social contribution), members of management bodies and other related persons [3]. This creates certain administrative and legal features in the financing of private HEIs, which must direct all received funds to the development of educational activities.

The legislation of Ukraine provides for the possibility of obtaining state funding by private higher education institutions through various mechanisms, the main of which are:

– first, a state order for the training of specialists. According to the Law of Ukraine «On Higher Education», private HEIs can participate in the competition for placing a state order for the training of specialists [1]. The distribution of the state order is carried out on a competitive basis, where the main criteria are the indicators of the quality of the educational activity of the HEI and the demands of the labor market;

– second, financing of scientific and scientific and technical activities. Private HEIs have the right to participate in competitions for receiving grants for conducting scientific research, which are financed from the state budget through the National Research Foundation of Ukraine and other state funds [4];

– third, financing through the «money follows the student» mechanism. This approach assumes that the state finances the education of students, not educational institutions, which allows funds to be directed to those HEIs that are chosen by applicants with the highest external assessment/NMT scores;

– fourth, state support for priority areas of training. Private HEIs can receive targeted state funding for training specialists in specialties that are a priority for the state, in particular in the field of information technology, natural sciences, medicine, etc [5].

However, despite the legislatively enshrined opportunities, in practice private HEIs face certain administrative barriers in accessing state funding. Among the main problems are the lack of transparency in the procedures for distributing state orders, the lack of clear criteria for evaluating tender proposals of private HEIs, the limited amount of state funding, which is mainly directed to supporting state HEIs, and unequal taxation conditions for private and state HEIs.

Administrative and legal features of obtaining state funding by private HEIs include the need to undergo additional procedures, in particular: inclusion in the register of non-profit institutions and organizations; passing financial audit procedures; reporting on the use of state budget funds; compliance with additional requirements for the transparency of financial activities.

The experience of European countries demonstrates more flexible approaches to financing private HEIs. For example, in Poland, the Czech Republic, and Slovakia, private educational institutions receive state funding on a competitive basis, provided that they meet the criteria for the quality of education and that their activities comply with the priorities of the state educational policy [6, p.189]. This approach creates equal conditions for competition between institutions of different forms of ownership and contributes to improving the quality of educational services.

Administrative disputes in the field of financing private higher education institutions are a special category of legal conflicts that arise between private HEIs and state authorities, local governments or other subjects of power on issues of implementing public policy in the field of higher education. The main categories of administrative disputes in the field of financing private HEIs are:

– disputes regarding the distribution of state orders. Private HEIs may appeal the decisions of competition commissions on the distribution of places in state orders if they believe that their rights have been violated or the selection criteria have been applied unevenly [7];

– disputes regarding tax benefits and obligations. Private HEIs, having the status of non-profit organizations, often face problems in their relations with tax authorities regarding the legality of the application of tax benefits [8];

– disputes regarding the targeted use of budget funds. In the case of receiving public funding, private HEIs may be subject to audits by financial control bodies, the results of which are sometimes subject to appeal in administrative courts [9, p.105];

– disputes over licensing and accreditation. Since the possibility of receiving public funding is often linked to the availability of appropriate licenses and accreditations, disputes over these procedures also affect the financial aspects of the activities of private HEIs [10, p. 141].

The administrative and legal features of considering such disputes are that they are considered according to the rules of administrative proceedings, where the burden of proving the legality of decisions, actions or inaction rests with the subject of government authority. This creates certain

procedural advantages for private HEIs compared to considering disputes in the economic judicial procedure. Judicial practice indicates an increase in the number of administrative disputes in the field of financing private HEIs. This is due both to the expansion of opportunities for obtaining state funding and to the ambiguous interpretation of the norms of the legislation regulating these issues [11, p. 369].

An analysis of court decisions shows that most often courts decide in favor of private HEIs in disputes regarding discriminatory conditions of competitions for obtaining state funding; unlawful exclusion from the register of non-profit organizations; groundless refusal to accredit educational programs. At the same time, courts more often support the position of state authorities in disputes regarding the misuse of budget funds; violation of public procurement legislation; failure to comply with licensing conditions.

An important aspect is preventive mechanisms for resolving potential administrative disputes. In particular, private HEIs are recommended to document in detail all processes related to the use of public funding, ensure transparency of financial activities, implement internal financial control systems, and monitor changes in legislation and judicial practice [12, p. 25].

5. Conclusions.

The conducted research allows us to draw the following conclusions regarding the administrative and legal features of financing private higher education institutions:

state regulation and control of the activities of private HEIs is characterized by a combination of general requirements for higher education institutions with additional requirements for private institutions, which creates certain features in their financing. Private HEIs have greater financial autonomy compared to public ones, but with restrictions on the distribution of income and the obligation to comply with the status of a non-profit organization;

mechanisms for obtaining public funding by private HEIs include participation in a competition for placing a state order, receiving grants for scientific activities, financing through the «money follows the student» mechanism, and state support for priority areas of training. However, in practice, private HEIs face administrative barriers in accessing public funding, in particular, insufficient transparency of procedures and unequal conditions of competition with public institutions;

administrative disputes in the field of financing private HEIs are a special category of legal conflicts considered according to the rules of administrative justice. The main categories of such disputes are disputes regarding the distribution of state orders, tax benefits, targeted use of budget funds, licensing and accreditation.

Therefore, in order to improve the administrative and legal regulation of financing private HEIs, it is advisable to introduce more transparent and objective criteria for the distribution of state orders; expand the mechanisms of public-private partnership in the field of higher education; improve the legislation on tax benefits for private HEIs and harmonize domestic legislation with European standards of financing higher education.

The implementation of these proposals will contribute to the creation of equal conditions for the functioning of higher education institutions of different forms of ownership, improving the quality of educational services and the efficiency of using budget funds in the field of higher education.

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