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Victoria Chornopyska
Lviv Polytechnic National University,
doctor of law,
Associate Professor of
civil law and procedure
of the Educational and scientific institute
of law, psychology and innovation education
Vika_Ch07@ukr.net
ORCID: 0000-0002-3230-5971

ACTIVITIES OF INSTITUTIONS OF HIGHER SPIRITUAL EDUCATION IN UKRAINE: ADMINISTRATIVE AND LEGAL GUARANTEES

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The article analyzes the administrative and legal guarantees of higher spiritual education in the context of modern educational legislation of Ukraine. Given the insufficient level of scientific and legal study of the topic and innovative processes in the Ukrainian educational environment, our article fills the gaps in the study of this issue to some extent. Despite the declared norms in the educational legislation, administrative and legal guarantees of the activity of higher spiritual education institutions as religious organizations continue to be formed.

New educational legislation established new guarantees for institutions of higher spiritual education and set a new trajectory for the development of theological education. In particular, the law preserves the autonomy of the Ministry of Education and Science of Ukraine, and due to accreditation, institutions of higher spiritual education issue state diplomas. The legislator allows religious organizations to maximally correlate the educational policy of higher spiritual education institutions, and to determine the principles of student government. Regarding the procedure of licensing and accreditation, opening of postgraduate and doctoral studies, specialized academic council on specialty 041 “Theology”, the legislator provides significant concessions and clearly recognizes all documents of higher theological institutions that are equivalent to state documents. However, the institutionalization of theology in the secular education system requires the search for new forms in the educational and scientific space of Ukraine.

Key words: institutions of higher spiritual education, administrative and legal guarantees, religious organizations, Ministry of Education and Science of Ukraine, Committee of the Verkhovna Rada of Ukraine on Education and Science, Law of Ukraine “On Higher Education”.

Formulation of the problem. Socio-and-political changes in Ukraine cause new trends in the development of educational and scientific discourse. Today, theological education in the confessional and state system of higher education is on the path of convergence, but at the same time, retains its autonomy and specificity. Significant changes in the system of higher education, in particular the introduction of

theological education, necessitate the modernization of a number of educational and scientific processes and their value, their rethinking, administrative, and legal regulation. The phenomenon of theological education now appears as a factor in many social and civilizational changes. The development of theological education in Ukraine is associated with the formation of legal provisions, as in the Soviet times theological education was de facto banned, during independence it was limited by Ukrainian law, and only in 2014 discriminatory restrictions on the development of theological education were finally removed. Despite the declared norms in the educational legislation, administrative and legal guarantees of the activity of institutions of higher spiritual education as religious organizations continue to be formed.

Analysis of recent research and publications. The problem of administrative and legal guarantees for the activities of institutions of higher spiritual education (hereinafter – IHSE) have not received adequate coverage in the domestic scientific discourse. Some aspects of this issue were analyzed by such Ukrainian researchers as M. Vasin [1], O. Dyatlik [2], I. Kunderenko [3], Yu. Reshetnikov [4], V. Khromets [5], J. Chornoyvan [6], Yu. Shulga [7]. Given the insufficient level of scientific and legal study of the topic and the innovative processes in the Ukrainian educational environment, our research is relevant and designed to some extent to fill the gaps in the study of this issue.

The purpose of the article. To analyze the administrative and legal guarantees of the activity of higher spiritual education institutions in the context of modern educational legislation of Ukraine.

Main material. After a long search for various alternatives regarding the administrative and legal regulation of the activities of higher spiritual education institutions, it became clear that without changes in educational legislation to systematically address this issue, it remains extremely problematic. As a result, the leaders of religious organizations began to actively address the authorities to immediately make appropriate changes to Ukrainian legislation. On February 14, 2013, the Chairman of the Committee on Science and Education of Ukrainian Parliament (the Verkhovna Rada of Ukraine) (hereinafter – VRU) L. Hrynevych held a meeting with representatives of religious organizations to address issues of state recognition of educational and scientific activities and opportunities for further development of theological education and science [8]. Initially, a de facto political solution was proposed, the state recognizes IHSE documents without appropriate state mechanisms for such recognition.

Discussion of this issue in a broader format took place on April 2, 3, 2013, during the conference “Theology in Ukraine: organizational, educational, and scientific context”, that was attended by representatives of the Ukrainian Parliament, the Ministry of Education and Science of Ukraine, spiritual and secular centers of theology and education, foreign delegates. The result was a resolution addressed to the Ministry of Education and Science of Ukraine and the Ukrainian Parliament, which set out proposals and fundamental principles that should form the basis for changes in Ukrainian legislation [9]. Therefore, a working group was set up within the Parliament Committee on Science and Education to work out a legal mechanism for recognizing the results of theological education and science.

As a result of heated discussions, members of the working group developed a compromise version of the bill, which was registered in the Parliament on June 20, 2013 entitled “Draft Law on Amendments to Certain Laws of Ukraine on Recognition of Educational Documents and Degrees” (Reg. № 2380a) and included in the agenda of the Parliament on September 2, 2013 [10]. It should be noted that the bill was unanimously approved by the Parliament Committee on Education and Science, and supported by all leaders of religious organizations and the Parliament Commissioner for Human Rights V. Lutkovskaya, but did not receive support from the relevant ministry.

The socio-political situation in Ukraine led to the solution of more pressing problems, so the issue of theology and education was postponed for some time. After the “Revolution of Dignity” and the change of government in April 2014, the Ministry of Education and Science initiated a vote on the new Law of Ukraine “On Higher Education”. Therefore, it became possible to integrate the draft law № 2380a into its

provisions. The analysis of this document showed that it took into account the interests of IHSE, gave them real self-government, denied the licensing and accreditation procedure, and allowed to carry out educational activities without licensing and accreditation, issuing documents on higher education of its own. In addition, the concept of licensing and accreditation of IHSE significantly simplified procedures and repealed certain rules (for example, strict regulation of material and technical base). This allowed IHSE to easily legalize their educational activities and integrate into the national education system, while maintaining the status of IHSE as a religious organization.

Therefore, the Law on Higher Education was proposed to make several amendments to the articles and supplement the list of final provisions. The articles concerned the issuance of state diplomas, final attestation, accreditation and licensing, while the transitional provisions addressed the issue of recognition of previously received documents on: accreditation; opening of postgraduate and doctoral studies; activities of specialized scientific councils; on obtaining higher education; on the award of scientific degrees and academic titles. In particular, this project for the first time at the legislative level raised the issue of separating theology into a separate field of knowledge. The proposals put forward by the working group were included in the draft law and voted on April 8, 2014 in the first reading, then passed to the second reading. There was some controversy over whether the IHSE should be licensed or accredited immediately, but all proposals were eventually accepted.

The new Law on Higher Education to some extent crossed the border between state and spiritual institutions of higher education in the development of theology and education, allowed to integrate IHSE into the national education system while maintaining the appropriate level of autonomy and religious specificity. Thus, according to the innovations of the relevant law, which were created in accordance with the law “On Freedom of Conscience and Religious Organizations”, were given the opportunity for state recognition of their educational and scientific activities [5]. Note that the law does not define a separate concept of “institution of higher spiritual education” and understands it in the status of a religious organization, the order of creation and operation of which are still regulated by the law “On Freedom of Conscience and Religious Organizations”. However, the law “On Higher Education” creates new opportunities and gives more rights to both IHSE and their graduates, research and teaching staff.

The law “On Higher Education” allocates a number of provisions to the problem of higher spiritual education, which we consider appropriate to analyze. Article 3, paragraph 3 “guarantees the independence of higher education from political parties, public and religious organizations (except for institutions of higher spiritual education)” [11]. This paragraph stipulates that Ukrainian legislation gives religious organizations the right to directly influence the activities of the IHSE, which are created by them.

In the first edition of the law “On Higher Education” in article 24, point 12, it is stated that IHSE, who wish to enter information about their diplomas of higher education into the State electronic database on education, must be licensed. IHSE who wish to issue state diplomas must be accredited by the educational program. The wording “applicants” indicated that the IHSE was not required to undergo licensing or accreditation. Today, this rule has been repealed due to the entry into force of other regulations.

Article 32 of the law “On Higher Education” defines the principles that are fundamental to the activities of higher education institutions. The fourth principle stipulates the “independence from political parties, public, and religious organizations (except for institutions of higher spiritual education)” [11]. As we can see, this principle is an exception for IHSE, given their special status in the education system, as they are separated from state intervention. IHSE are directly dependent on the religious organizations that created them and have the right to determine the principles of these educational institutions in accordance with their statutes. This principle applies to all IHSE without exception, as they are all in accordance with article 11 of the law “On Freedom of Conscience and Religious Organizations” are created by religious administrations in order to train clergy and other religious specialties necessary for their functioning.

Article 40 regulates the activities of student government in the Free Economic Zone and sets out the principles according to which its bodies must act, in particular “independence from the influence of

political parties and religious organizations (except for institutions of higher spiritual education)” [11]. Special status under this norm is again given to IHSE, religious organizations that create them may have some influence on the activities of student government in these educational institutions.

Regarding the management of IHSE, article 42, paragraph 6 stipulates that “the procedure for appointing the heads of institutions of higher spiritual education is governed by their statutes, registered in the manner prescribed by law” [11]. This article clearly indicates that the IHSE during the procedure of appointment of managers is not guided by the requirements established by the law “On Higher Education”, but by its own statute, registered in the manner prescribed by law. Therefore, it completely prevents the influence of the state on the appointment of the head of IHSE, does not oblige to comply with voting procedures and relevant requirements for the candidate provided by the law “On Higher Education”. It should be noted that it is quite common practice among IHSE, when the head is not elected by the community of educational spiritual institution but is appointed leader of a religious organization.

In the final and transitional provisions of paragraph 18, it is established that during the procedure of licensing and accreditation of the educational program in the specialty “Theology”, documents on higher education, scientific degrees and academic titles of teachers (pedagogical and scientific-pedagogical workers) and members of the specialized scientific council, issued by IHSE, are considered equivalent to the relevant documents issued in the manner prescribed by law [12].

This norm was an important step towards meeting religious organizations in the further development of academic theology, as it equates the documents of scientific and pedagogical staff of IHSE to state in the process of state legalization of educational and scientific programs in “Theology”. In August 2015, the Cabinet of Ministers adopted a resolution № 33652, that approved the relevant procedure for the recognition procedure [1].

The next important document on the recognition of IHSE documents was the order of the Ministry of Education and Science as of 08.04.2016 № 381 “Issues of state recognition of documents on higher spiritual education, scientific degrees, and academic titles” [14]. According to this order, the regulations on two commissions were approved: the Commission on State Recognition of Documents on Higher Theological Education [15] and the Commission on State Recognition of Documents on Scientific Degrees and Academic Titles [16]. These commissions included the representatives of: Ministry of Science; Public Council for Cooperation with Churches and Religious Organizations; religious organizations; higher education institutions, which have a license for educational activities in the field of knowledge “Theology”, as well as two members of the board of the public organization “Evangelical Accreditation Theological Association” [17]. Thus, for example, the Commission for State Recognition of Documents on Higher Theological Education in 2018 made a positive decision on 1427 diplomas, recognized 83 diplomas of scientific degrees and 19 academic titles [18].

In the order of the Ministry of Education and Science “On approval of the Procedure for conferring academic titles to scientific and scientific-pedagogical workers, the peculiarity of IHSE is mentioned in a few separate parts. Thus, the general provisions in the second paragraph of article 2 stipulates that the decision to confer the academic title of scientific-and-pedagogical workers of IHSE may be made by academic councils of IHSE, statutes (provisions) which are registered in the manner prescribed by law, passed the licensing of educational activities, and are defined by this Procedure” [19]. That is, after September 1, 2018, the scientific titles of employees of religious educational institutions are recognized by the state only by those who have been awarded by IHSE, received a license in accordance with law and submitted to the Ministry of Education an attestation case approving the decision of the Academic Council. It is known that after obtaining a license from an educational institution, individuals can apply for the academic title of associate professor in 5 years, professor – in 10 years. Regarding the recognition of the length of service of IHSE, the legislator again made an exception, for scientific-and-pedagogical workers of IHSE, the experience of pedagogical work in IHSE is considered, the statutes (provisions) of which are

registered in the manner prescribed by law [12]. Thus, when IHSE has a license and submits a person's attestation file to the Ministry of Education and Science, the length of service in scientific and pedagogical positions obtained in the license is credited when assigning a scientific title.

A separate paragraph of the transitional provisions of the law "On Higher Education" stipulated that theology should be separated into a separate branch. Therefore, in February 2015, the draft National Standard Classification of Education for specialties of the III educational-and-scientific level and IV scientific levels of education was published for public discussion. The list of specialties in Christian theology was developed by an interfaith working group, which operated on the basis of the Ukrainian Catholic University, which formed eight specialties and prepared their passports: 01. Dogmatics; 02. Biblical Studies; 03. Historical theology; 04. Liturgy; 05. Church history; 06. Moral theology and social doctrine; 07. Canon (Church) law; 08. Practical theology, and 09. Specialties of other denominations.

However, it later became clear that the fields and specialties should be identical at all four levels of higher education from bachelor's to doctoral. Since, in practice, this will lead to the fact that in the process of licensing and accreditation at the I and II levels of higher education, both free economic education and vocational training will be forced to license and accredit each specialty separately, which will create significant obstacles to theological education as a whole.

Therefore, according to the resolution of the Ministry of Education and Science No. 266 "On approval of the list of branches of knowledge and specialties in which higher education is trained" from April 29, 2015 [14] "Theology" becomes a separate field of knowledge 04. Theology with specialty code 041 Theology. This branch provides the initial level of higher education – junior bachelor (the first level), bachelor (the second level), master, Doctor of Philosophy (the third educational-and-scientific level), and scientific level – Doctor of Science [11].

The next step after the approval of the domain and specialties is the preparation of educational standards. On April 6, 2016, the composition of subcommittee 041 Theology of the Scientific and Methodological Commission on the Humanities and Theology of the Higher Education Sector of the Scientific and Methodological Council of the Ministry of Education and Science of Ukraine was approved [15]. When developing the standard of higher education in specialty 041 Theology, the competence approach was taken into account, where the standard regulates only the normative part of the curriculum, for the first level of higher education this share is 50 %, for the second level of higher education – 25%, the rest of the curriculum is determined independently by the educational institution. A feature that was considered in the development of standards is that theological education is developing in both spiritual and secular institutions of higher education. For the former there is an important emphasis on confessional education, while for the latter – on interfaith theological education. Recommendations for the development of standards of higher education were summarized in the Order of the Ministry of Education and Science of Ukraine No. 600 "On approval and implementation of Guidelines for the development of standards of higher education" as of 01.06.2016 [22].

The emergence of the specialty "Theology" in the secularized educational space is one of the pilot innovative projects since the entry into force of the above-mentioned law. Training of Christian theologians is available through licensed and accredited theology programs in such higher education institutions as Ostroh Academy, Ukrainian Catholic University, V. Dahl East Ukrainian National University, V. Karazin Kharkiv National University, K. Ushynskiy South Ukrainian State Pedagogical University, and others. The opening of theological educational programs in secular institutions of higher education is focused on training the theologian as a scientist in order to be able to objectively resolve the legal aspects of the activities of religious organizations at the theological level.

Conclusions. Thus, the new educational legislation is trying to overcome the gap between the spiritual and secular systems of higher education. In the post-Soviet space, Ukraine is "the only country

where the state recognition of previously issued diplomas of religious educational institutions is carried out”, which graduates allows of educational institutions to work in public institutions and other public spheres, as well as to continue postgraduate and doctoral studies in other higher education institutions.

New educational legislation established new guarantees for institutions of higher spiritual education and set a new trajectory for the development of theological education. In particular, the law preserves autonomy from the Ministry of Education and Science of Ukraine, and because of accreditation IHSE issues diplomas of the state standard. The legislator allows religious organizations to maximally correlate the educational policy of IHSE to determine the principles of student government. Regarding the procedure of licensing and accreditation, opening of postgraduate and doctoral studies, specialized academic council in the specialty 041 “Theology”, the legislator provides significant concessions and clearly recognizes all documents of IHSE that are equivalent to state documents. The legislation also stipulates that documents on education, scientific degrees and academic titles issued to persons in the institutions of higher education are recognized as equivalent to state documents. However, the institutionalization of theology in the secular education system requires the search for new forms of its presence in the educational and scientific space of Ukraine.

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Вікторія Чернописька
Національний університет “Львівська політехніка”,
доктор юридичних наук,
доцент кафедри
цивільного права та процесу
Навчально-наукового інституту
права, психології та інноваційної освіти
Vika_Ch07@ukr.net
ORCID: 0000-0002-3230-5971

ДІЯЛЬНІСТЬ ЗАКЛАДІВ ВИЩОЇ ДУХОВНОЇ ОСВІТИ В УКРАЇНІ: АДМІНІСТРАТИВНО-ПРАВОВІ ГАРАНТІЇ

Проаналізовано адміністративно-правові гарантії діяльності закладів вищої духовної освіти в контексті сучасного освітнього законодавства України. З огляду на недостатній рівень науково-правового вивчення теми та зважаючи на інноваційні процеси в українському освітньому

середовищі, наша розвідка певною мірою заповнює прогалини у дослідженні цієї проблематики. Незважаючи на задекларовані норми в освітньому законодавстві, адміністративно-правові гарантії діяльності закладів вищої духовної освіти як релігійних організацій продовжуються формуватися.

Нове освітнє законодавство заклало нові гарантії для закладів вищої духовної освіти та визначило нову траєкторію розвитку богословської освіти. Зокрема, законом зберігається автономність від Міністерства освіти і науки України, при цьому у результаті проходження акредитації заклади вищої духовної освіти можуть видавати диплом державного зразка. Законодавець дозволяє релігійним організаціям максимально корелювати освітню політику закладів вищої духовної освіти, визначати принципи діяльності студентського самоврядування. Щодо процедури ліцензування та акредитації, відкриття аспірантури та докторантури, спеціалізованої вченої ради зі спеціальності 041 “Богослов’я” законодавцем передбачаються істотні поступки та чітко визнаються всі документи закладів вищої духовної освіти, які є еквівалентні державним документам. Втім інституціалізація богослов’я в світській системі освіти вимагає пошуку нових форм її присутності в освітньо-науковому просторі України.

Ключові слова: заклади вищої духовної освіти, адміністративно-правові гарантії, релігійні організації, Міністерство освіти і науки України, комітет Верховної ради України з питань освіти і науки, Закон України “Про вищу освіту”.