

## Scientific Paper

**Svetlana Sysoieva** (1948)

Address: Timoshenka str. 6-a, flat 144, Kyiv, 04212, Ukraine; Telephone: +38 067 209 98 23

**NEW LAW ON HIGHER EDUCATION IN UKRAINE: INNOVATIONS AND RISKS**

EdD, Professor, Corresponding Member of the National Academy of Educational Sciences of Ukraine in Kyiv Borys Grinchenka University; Address: Timoshenka av, 13-b, Kyiv, Ukraine

[2099823@mail.ru](mailto:2099823@mail.ru)

**Natalia Mospan** (1971)

Address: Shevchenka str. 7-a, flat 56, Kyiv region, Vyshgorod, 07300, Ukraine; Telephone: +38 096 232 32 61

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PhD, Associate professor of English Philology in Kyiv Borys Grinchenka University; Address: Timoshenka av, 13-b, Kyiv, Ukraine

[Monavik@ukr.net](mailto:Monavik@ukr.net)

## **NEW LAW ON HIGHER EDUCATION IN UKRAINE: INNOVATIONS AND RISKS**

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*KLJUČNE BESEDE: inovacije, nov zakon, reforme, visoko šolstvo, visokošolski zavodi*

*POVZETEK - Od podpisa Bolonjske Konvencije leta 2005, je visokošolsko izobraževanje Ukrajine bil v stanju sprememb. Sodoben razvoj visokega šolstva v Ukrajini, je predmet zakonov tržnega gospodarstva, ki zahtevajo reforme visokega šolstva v kontekstu globalnih trendov v izobraževalnih sistemih. Razlika nacionalnega visokošolskega izobrazbeni strukturi iz mednarodnega enem otežuje prilagajanje na mednarodne standarde izobraževanja, programov in kvalifikacij. Pomemben korak za reševanje teh vprašanj je bilo sprejetje novega zakona o visokem šolstvu v Ukrajini leta 2014. Osnovnih mehanizmov reforme so za zagotovitev poštene konkurence na trgu izobraževanja, sodobni načini visokošolskega javnega financiranja, akademskega in finančna avtonomija visokošolskih institucije. Cilj te inovacije vključiti Ukrajinski izobraževalni sistem v Evropski visokošolskem prostoru. To zahteva, na eni strani, skrbno proučevanje Evropskih izkušenj, na drugi strani – ohranjanje nacionalne izobraževalne tradicije. Zato je namen tega prispevka je preučiti spremembe in s tem povezanih tveganj, da novi zakon prinaša.*

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*ABSTRACT - Since the signing of the Bologna Convention in 2005, the higher education of Ukraine has been in a state of changes. Modern development of higher education in Ukraine is a subject of market economy laws, which require reforms of higher education in the context of global trends in education systems. The difference of national higher education structure from international one complicates the adaptation to international education standards, programs and qualifications. An important step to solve these issues was the adoption of the new Law on Higher Education of Ukraine in 2014. The basic mechanisms of reform are to ensure a fair competition in the education market, the modern methods of higher education public financing, the academic and financial autonomy of HEIs. These innovations aim to integrate the Ukrainian education system in the EHEA. This requires, on one hand, careful study of European experience, on the other hand – the*

*preservation of national educational traditions. Accordingly, the aim of this paper is to study the changes and associated risks that the new law brought.*

**Introduction.** The beginning of the XXI century in Ukraine was marked by the growth of the public to higher education modernization. In 2005 Ukraine signed the Bologna Convention and launched a number of changes in higher education.

The Ukrainian researchers (Ogneviuk, 2013, Sysoieva, 2013, Yablonsky, 2013) noted that the current system of higher education in Ukraine is in process of changes. The primary changes required structure of higher education, which was not consistent with international practice of leading higher education systems. That, in its turn, complicated international comparison and understanding of international standards of level-orientation and education programs and qualifications. An important step to address these issues was the adoption of the new Law on Higher Education of Ukraine in July 1, 2014. This law is very important for the development of higher education in Ukraine, as it carries many important changes.

This paper provides a structured look at the new law innovations. They are learnt in the context of “Strategy for Higher Education Reform in Ukraine 2020”, whose implementation is designed for the period 2015-2020 years. The authors of “Strategy” emphasize that the goal is to create an attractive and competitive national system of higher education in Ukraine integrated into the EHEA and the ERA (Strategy, 2014).

The new law establishes financial principles of higher education system, creates conditions for strengthening cooperation of government agencies and businesses with universities on the principles of autonomy in higher education. An important goal is to prepare competitive human capital for national high-tech innovation and development, self-identity, provide the needs of society, labor market and the state in skilled professionals.

Here are outlined the main innovations of the Law on Higher Education in Ukraine.

### **1. State Policy Changes in the Field of Higher Education**

It gains significant changes which are based on the following principles (Article 3): 1) independence of higher education studies of political parties, civic and religious organizations; 2) integration of Ukrainian higher education in the EHEA, subject to

conservation and development achievements and progressive traditions of national high school; 3) promote public-private partnerships in higher education; 4) public support of universities, academies, institutes, colleges by means of providing benefits from taxes and other obligatory payments to HEIs. It is important to emphasize the principle of total economic integration, and integration of Ukrainian higher education to the EHEA (Law, 2014, p.1).

The law provides expansion of academic and partly organizational autonomy of HEIs. HEIs are more guaranteed property rights. In particular, the property is transferred in full economic management that in a legal system of Ukraine is practically equivalent to property rights. HEIs receive ownership of the results of scientific work that are made for the budget funding. These steps are aimed at improving the quality of higher education by providing academic, organizational and financial autonomy of HEIs and on that basis fair competition.

Potential risks include university staff unwillingness to take responsibility. They are habitual to function in the administrative-command paradigm. Heads of HEIs might “personify” HEIs autonomy (Strategy, 2014, p. 14-15).

## **2. Public and Private HEIs Rights**

For the first time in the history of Ukraine the law provides equality between public and private universities. In particular, it introduces free competition between them and defines quality as the main criterion for receiving educational services. The law increases the degree of competition with the overall drop in the quality of education, encourages public universities become more mobile and entrepreneurial and less dependent on government subsidies.

However, according to Kupriy T. (Kupriy, 2014, p. 287), there are risks of implementing the basics of education legislation. First of all, it should be noted double standards in the coverage expansion autonomy. The law stipulates the expanding of HEIs autonomy (regardless of ownership), but in terms of training and scientific work. Thus, the state limits the competitiveness of private universities in the educational market and violates the right of citizens who are part of the academic community.

Another innovation for HEIs in Ukraine is the attainment of a new classification. They will be divided into universities, institutes, academies and colleges instead of distribution by level of accreditation. The introduction of a new HEIs classification with a specific number of students, Kupriy T. considers a new challenge for private education, which could lead to massive reduction of private universities and teaching there primarily Bachelor programs, as in most private universities from 1 to 2 thousand students study. Private university could theoretically become national and research one. These statuses give more rights and more funding from the state (Kupriy, 2014, p. 288).

### **3. Higher Education Levels and Degrees**

The law provides bringing the structure of higher education in line with the Bologna process and the criteria of the International Standard Classification of Education. The move is aimed at solving the problem of compliance and understanding of international education programs and qualifications; introduction to international education statistics database and optimization of HEIs network.

Under Article 5, the higher education applicants are trained in appropriate educational and professional, educational and scientific, academic programs at the following higher education levels:

*Entry level (Short cycle)* of higher education corresponds to the fifth level of National Qualifications Framework and provides the person to obtain the cultural and vocational training, special skills, knowledge and an experience of their practical use to perform common tasks provided for primary positions in the relevant field of professional activity.

*1-st level (Bachelor)* of higher education corresponds to the sixth level of the National Qualifications Framework and provides the person to obtain theoretical knowledge and practical skills sufficient for successful perform of the professional duties in the chosen work field.

*2-nd level (Master)* of higher education corresponds to the seventh level of the National Qualifications Framework and provides the person to obtain deep theoretical and / or practical knowledge and skills in the chosen qualification (or specialization), the general principles of scientific methodology and / or professional activities, and other competencies

sufficient to effective performance of the tasks of innovative character in the relevant profession.

*3-rd (Education and Research)* of higher education meets the eighth qualification level of the National Qualifications Framework and provides the person to obtain theoretical knowledge, skills and competencies sufficient to produce new ideas, solve complex problems in professional and / or research and innovative activity, obtain the methodology of scientific and educational activities, and conduct the own research, with the results of the scientific novelty, theoretical and practical value.

*Science level* of higher education meets the ninth qualification level of the National Qualifications Framework and provides for the acquisition of competencies for the development and implementation of methodologies and research techniques, new knowledge and / or advanced technologies, solution the important scientific and applied problems with national or global significance (Law, 2014, p.1).

The higher education gaining at every level involves the person’s successful fulfillment of the appropriate educational (vocational and research) or scientific program, which is the basis for the conferment of the appropriate degree of higher education:

<b>Higher Education Levels</b>	<b>Higher Education Degrees</b>	<b>National Qualifications Framework</b>
Entry level (Short cycle)	Junior Bachelor	5-th level
1-st level (Bachelor)	Bachelor	6-th level
2-nd level (Master)	Master	7-th level
3-rd level (Education and Research)	Doctor of Philosophy	8-th level
Scientific level	Doctor of Science	9-th level

**Table. Correlation between higher education levels, degrees and NQF**

*Junior Bachelor* – is educational and professional degree that is acquired at the entry level (short cycle) and is conferred by higher education institution to the applicant for his

successful fulfillment the educational and vocational programs, the amount of which is 90-120 ECTS credits.

*Bachelor* – is an educational degree that is acquired at the first level of higher education and is conferred by higher education institution to the applicant for his successful fulfillment the educational and vocational programs, the amount of which is 180-240 ECTS credits. The amount of the programs for Bachelor's degree is determined by the HEIs on the base of a Junior Bachelor's degree.

*Master* – is an educational degree that is acquired at the second level of higher education and is conferred by higher education institution to the applicant for his successful fulfillment of the education (90-120 ECTS credits) and scientific (120 ECTS credits) program. Master program must include scientific component not less than 30%.

*Doctor of Philosophy* – is an educational and the first scientific degree, acquired at the third level of higher education based on a Master's degree. Degree of Doctor of Philosophy is conferred by a specialized high council of a university or research institution to the applicant for his successful fulfillment of the scientific program and public defense of the thesis in Specialized Academic Council.

*Doctor (Doctor of Science)* – the second degree, which is obtained by a person on a scientific level of higher education based on the degree of Doctor of Philosophy and provides the highest gaining competences in the field of development and implementation of research methodology, conducting original research to obtain scientific results that provide important theoretical solution or application problems and have national or global significance and are published in scientific journals (Law, 2014, p.1).

The law gradually cancels such degrees as Junior Specialist and candidate of science, and instead it introduces the following steps in the educational hierarchy junior bachelor, bachelor, master, PhD and Doctor of Science. Thus, up to 2016 the level of Junior Specialist will be removed from the higher education system and it will be introduced as a Junior Bachelor as shortened cycle for Bachelor's training. Those who have already had a Diploma of Specialist will be equivalent now to Master and Junior Specialist – to the Junior Bachelor.

In addition, since 2016 “Candidates of Science” will have the title of “Doctor of Philosophy” (PhD). This condition is necessary for the integration of higher education.

Researchers point to the risk of mass transfer of colleges and technical schools to training Junior Bachelor without proper conditions and needs. It can also continue the practice of unjustified providing HEIs a status of national and research universities (Strategy, 2014, p. 20).

#### **4. Educational Programs**

An important innovation is the right of HEIs to design and implement research and educational programs. According to Article 10, “Higher Education Standards” define such requirements to an educational program: 1) the amount of ECTS credits needed to obtain the corresponding degree of higher education; 2) a list of competencies of graduates; 3) the normative content of training candidates of higher education, formulated in terms of learning outcomes; 4) forms of certification candidates of higher education (Law, 2014, p.1).

Panych O. believes that the new Higher Education Law does not prescribe clear mechanisms how to avoid state centralization and monopolization of quality assurance of higher education. A creation of a new state agency for control of quality assurance means that the state gives priority in this regard to the State Accreditation structure rather than to HEIs (Panych, 2014).

#### **5. Quality Assurance System**

After its creation in 2015, a National Agency for Quality Assurance in Ukraine will have the following powers: 1) requirements establishment for Quality Assurance in higher education, regulation development on accreditation of educational programs; 2) requirements development for the academic qualifications of persons who acquire degrees, the procedure for the award of specialized academic councils of HEIs (academic institutions); 3) development of regulations on accreditation of academic councils and monitoring their activities.

Accordingly, this collegial body should monitor how HEIs follow the state educational standards. Previously the state did it itself. The agency structure should include

representatives from HEIs of all forms of ownership, the delegates of The National Academy of Sciences of Ukraine, representatives of students and employers.

The creation of such structure as the National Agency for Quality Assurance in higher education, according to Panych O. (Panych, 2014), reveals a tradition in our society to give priority in providing quality assurance to state regulatory body and not to HEIs. We can assume that this tradition will continue, despite the change of accreditation institution name. The Agency, despite the democratic principles of its formation, and despite the fact that it will remain a state agency, risks turning into a new State Accreditation Commission sooner or later. O. Panych points out that there is a need to rethink strategic objectives of accreditation system. The principal change in accreditation mechanisms may become a turning point for the development of our higher education; and their conservation, however, may be the biggest defeat for Education Reform (Panych, 2014).

Among the possible risks the authors of "Strategy" point out “the impossibility of fighting corruption and formation of a new academic ethnic group in the absence of progress in reducing similar events across the nation” (Strategy, 2014, p.11).

## **6. Strengthening of Anty-Plagiarism Standards**

Under the new law it will be significantly strengthened anty-plagiarism rules and responsibility for them. All research papers will be placed on HEIs websites for easier fight plagiarism. In addition, penalties for plagiarism will be more brutal.

## **7. Mechanism of Elections for Positions**

Educators should take no more than one position, and the rector can't hold a post more than one term. A new mechanism will be created for the election of rectors of HEIs (participation of all staff is raised in the appropriate proportion (15%) from the number of students who will take part in the vote). The holding a post of a rector, a dean and a head of departments is limited for no more than two terms (5 years + 5 years). These requirements, in the opinion of Kupriy T. (Kupriy, 2014, p. 288), may disrupt stable educational process.

## **8. Students Mobility**

The law provides the creation of conditions to increase the mobility of students and teachers. A share of Master's programs in partnership with other Ukrainian HEI should be

raised to 2% by 2020 for research universities, and with foreign HEIs – 5% by 2020 for research universities. The share of exchange visitors of Ukrainian public HEIs among students should be raised to 5% by 2020 for all universities. The share of exchange visitors from foreign universities among the total number of students is expected to be 3% by 2020. The result of this innovation is expected to increase the number of joint programs and exchanges among teachers and students between Ukrainian HEIs and between Ukrainian and foreign HEIs.

### **9. Electronic Mechanism for HEIs Admissions**

Since 2016 a new mechanism of electronic university admissions and automatic placement of state order will be provided. The new rules will apply government contracts. Since 2016 the state order will be given to HEIs based on their ranking placed by independent public institutions. The government expects that this will increase competition among HEIs.

### **10. Higher Education Financing**

The ultimate goal of the reform of higher education financing is the rationalization of public expenditure on higher education without a significant increase in their share of the consolidated state budget to meet the needs of society and the labor market for specialists with higher education and guarantee persons, able to receive higher education, qualitative education. This point of law arouses doubt and raises several questions.

The first question is the financial independence of HEIs. Thus, according to the law, HEIs are independent in financial and economic affairs from the state, which should increase their initiative in creating research and innovation organizations. Public HEIs will be able to place their revenue from its educational and scientific activity on the accounts of state banks. In turn, the financial independence of HEIs requires transparency in all areas of the university activities, providing periodical publishing reports, estimates and the results of the planned activities. But Kupriy T. considers that public publication on the website the results of the annual internal monitoring of the education quality, admissions for next year, research papers and reviews opponents the defense, documents about their finances, property,

including estimates, reports on their implementation, the distribution of wages, etc., can be an obstacle to the efficient operation of many private HEIs (Kupriy, 2014, p. 288).

The second question – public funding of higher education. The new law creates conditions for reforming traditional system of state order. The authors of "Strategy" believe that in the nearest future the system of state order for specialists with higher education can only be used according to its intended purpose taking in account specific character of different levels of education – the training experts for public use – national security, defense, police, medicine, education. In addition, by 2020 the system of state orders will have been replaced with other modern forms of higher education financing such as block funding, voucher financing and credit funding system (Strategy, 2014, p.16).

Importantly, the study of the European experience on the subject showed that EU countries use different strategies for public funding of higher education, but don't have universal mechanism for this. They face a range of problems that should be carefully studied and considered in Ukraine (Mospan, 2014, p.74).

Thus, despite the fact that the law should solve the problem of rational use of public funds aimed at improving the quality of higher education, the possible consequences can be unjustified limitations of regional HEIs that train personnel for the respective regions or industries; rights abuse by HEIs in their financial activity or financial bankruptcy of individual universities because of improper financial planning (Strategy, 2014, p. 15-16).

### **Conclusion**

Undoubtedly, the innovations, mentioned above, are focused on solution lots of issues and their aim is to modernize the higher education in Ukraine. Lawmakers direct the development of national education system to integration into the European Higher Education Area. This requires, on the one hand, careful study and harmonious adaptation of leading European universities experience, on the other hand – the preservation of Ukrainian national educational traditions. In this context, these innovations could lead to negative consequences and even regression in the higher education development. To what extent the adopted law allows implement constructive changes to the reform process, time will tell. Today, we can only conclude that with the adoption of the new Law on Higher Education in Ukraine the

strategy to reform higher education in Ukraine is entirely focused on European vector of development.

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