

# ENSURING INTERNATIONAL COOPERATION IN HIGHER EDUCATION IN UKRAINE: ECONOMIC, MANAGERIAL, AND LEGAL ASPECTS

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**Abstract.** *The present research is devoted to the analysis of the norms of the current regulatory legal framework and scientific concepts for identifying a system of administrative legal forms and methods for ensuring international cooperation in the field of higher education. This investigation examined the specifics of ensuring international cooperation in higher education in the context of interrelated fields such as public administration, economics, and law. The key features and factors of administrative and legal regulation of international cooperation in higher education are described in relation to the influential features of the market economy, modern public administration, and the content of legal norms, among which administrative law norms play a decisive role in the context under study.*

**Key words:** *education and science, international cooperation, international cooperation in higher education, sustainable development, administrative law.*

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**Introduction.** The organization and ensuring of international cooperation in higher education is linked to several types of social relations, in particular socio-economic, socio-political, and socio-legal relations.

Indeed, the strengthening of international cooperation as an economic phenomenon is characterized by a political component and an impact on the worldview of participants. The first factor, from an economic point of view, can be explained by the example of globalization, which is most often associated with “the liberalization of economic space, freedom from restrictions ... leading to the ‘erasure’ of economic borders, forming a global market with various objects and the emergence of transnational entities” [1, p. 74]. Furthermore, from a legal perspective, legal relations in the field of higher education and the corresponding international cooperation as their component are determined by the “political will” enshrined in legislative acts. The realization of this will is detailed in subordinate regulatory legal acts.

As for the impact on worldview, then for the first, “within the education system, there is more talk of strengthening the position of the Anglo-Saxon system and educational standards based on a multi-level education model” [1, p. 74], which in turn necessitates influencing the qualifications of scientific and pedagogical workers. For the second, the involvement of the latter in international cooperation and the corresponding professional adaptation influence their system of personal and professional priorities and values, which are “spread” to other participants (students) in the educational process. In addition, according to [1], the consciousness of participants in educational and scientific cooperation is also influenced by “changes in the principles of the functioning of the educational space in the context of social (the principle of equality and accessibility), geographical (the principle of openness), and intellectual (the model of ‘lifelong learning’) maintenance”. [1, p. 74]

In the context of public administration and economics, it is important to pay attention to the state's interest in developing and modifying international cooperation in higher education as an “export industry” of

the state. In particular, in the world's leading economically developed countries, the cooperation under study has developed to such an extent that it has generated significant revenues for the state budget. For example, as of 2016, educational services for foreigners were the fifth most profitable export service sector in the United States (US\$14 billion) and the fourth most profitable in Australia (A\$7.8 billion), etc. [1, p. 81].

The complexity of sectoral interrelationships in international cooperation in higher education can be described using the example of internationalization factors as one of the key areas of this cooperation, which has led to the emergence of new forms of international cooperation in the field of education. [1, p. 85]

Indeed, the internationalization of higher education as a factor of state policy and strategy of a particular higher education institution, consists in taking advantage of the “benefits of international cooperation” and, in the context of university cooperation, represents “the process of extending the ‘regular’ educational process beyond national borders”. [1, p. 76]

In particular, from the subject's point of view, two forms of internationalization of education are distinguished: direct (crossing the border by subjects of educational activity) and indirect (transfer of the results of intellectual activity of the aforementioned subjects beyond the state border). Depending on the direction, internationalization can be divided into externally oriented (direct and indirect internationalization directed outside the state) and internally oriented (direct and indirect internationalization directed from abroad). Among the key prerequisites or factors for the internationalization of higher education, the following stand out: political (democratization and the development of socio-political integration of social relations); economic (the specificity of labor markets at various levels, globalization of the economy and technology); cultural and ideological (increased openness and communication between different nations); academic (the international nature of scientific activity, the universality of the educational base, and the formation of international standards for educational and

scientific activity); informational (the development of information technologies and new opportunities for effective communication). [1, p. 77]

Therefore, administrative and legal ensuring for international cooperation in higher education is inextricably linked to the specifics of economic relations and public administration, and its administrative and legal forms and methods require separate study, as they act as a legal driver and regulator of relevant social legal relations.

**The purpose of the article** is to consider administrative and legal forms and methods of ensuring international cooperation in the field of higher education, which is achieved by performing the following tasks: reviewing scientific concepts regarding the specifics of international cooperation in the field of higher education and the mechanism for ensuring it from the point of view of economics (market relations) and public administration; studying existing views and ideas on the classification of administrative and legal forms and methods of ensuring legal relations related to international cooperation in higher education (ensuring the quality of higher education, international cooperation in the field of physical culture and sports, state regulation of higher education, as well as the limits of internationalization of higher education); identifying administrative and legal forms and methods for ensuring international cooperation that are characteristic of current trends in higher education.

**Research methods.** In this research, the following set of scientific methods was used to achieve the set goals and objectives: formal-logical, analytical-comparative, and systemic-structural methods were used to analyze and compare scientific views and individual legal norms. The dogmatic method was useful in studying the content of the norms of current legislation; a combination of reviewing scientific sources and a creative method was used to identify administrative and legal forms and methods of ensuring international cooperation in the field of higher education.

**Results.** In this paper, for identifying the system of administrative and legal forms and methods of ensuring international cooperation in the field of higher education, research was conducted in the context of legal, managerial, and economic dimensions. Relationships and factorization between international cooperation in higher education and the characteristic features of a market economy, modern public administration, and legal norms are described, with administrative law norms playing a decisive role in the context under study.

Thus, from the point of view of a market economy, it is reasonable to agree with the views of domestic scholars on the partnership nature of the cooperation under study, which is essentially symbiotic with state regulation based on the norms of administrative law.

The results of the study are intertwined with some well-known scientific research findings, since the administrative and legal forms and methods of ensuring a certain type of social relations are derived from

the terminology of general administrative law theory. At the same time, the system of such forms and methods for certain legal relations has certain features and differences based on the specifics of the legal relations under study and the scientific views of researchers.

The research reveals similarities between the administrative and legal forms and methods of ensuring international cooperation in higher education and the corresponding categories for the areas of quality assurance in higher education, international cooperation in physical culture and sports, state regulation of higher education, and the internationalization of higher education. At the same time, taking into account the norms of other branches of law (for example, civil law) and current trends in higher education (autonomy, academic freedom, the influence of international rankings of higher education institutions, etc.), certain differences in the administrative and legal forms and methods under study can also be observed.

Thus, the administrative and legal forms of ensuring international cooperation in the field of higher education are the following:

- rule-making (rule-making within the framework of national law only; activities related to the ratification and implementation of international legal documents; rule-making at the international level, in particular the conclusion of international treaties, agreements, etc.);
  - improving the conditions for cooperation and/or financing international cooperation;
  - the autonomy and/or freedom of legal entities in the field of higher education in combination with a system of state incentives and penalties;
  - procedures for authorizing educational activities and establishing the limits of such powers (accreditation, licensing, certification, etc., in the context of which requirements for international cooperation are imposed on educational entities);
  - recognition by public administration entities of rankings and certain national and international ratings of higher education entities (mainly applies to higher education institutions).
- Finally, it is advisable to highlight the following administrative and legal methods of ensuring international cooperation in the field of higher education:
- statistical and accounting method;
  - planning;
  - communication and information method;
  - control;
  - rating;
  - public administration of international competitions and/or programs.

#### **Discussion.**

#### **1. Ensuring international cooperation in higher education from the perspective of public administration and economics.**

Modern higher education as a component of the national economy operates on the basis of market relations in the production and sale of educational services. However, the

market mechanism does not have the capacity for effective administration and management of educational activities. The need for state regulation of higher education is determined by both the latter fact and the following needs: the need for budgetary financing; the expediency of state statistical and forecasting activities regarding the higher education system and its elements; the need to introduce state standards in higher education, licensing and certification of higher education institutions, and recognition of documents on higher education and academic degrees. [6, p. 9]

From the point of view of economics and state regulation, international cooperation in higher education is inextricably linked to the categories of “cooperation agreement,” “partnership,” “sponsorship,” and “international scientific and educational program” [1, p. 65], and the most accurate term to describe the nature of such activities is “partnership” [1, p. 54].

Considering the above categories in the context of international cooperation between higher education institutions, P. Aliyeva emphasizes the voluntary nature of partnerships between higher education institutions [1, p. 66], and identifies the key areas of partnership cooperation as strengthening international cooperation with partner universities on the basis of bilateral agreements and the participation of domestic higher education institutions in internationally funded programs to implement joint projects with foreign partners [1, p. 66].

However, in the theory of public administration regarding international cooperation in higher education, along with the category of “partnership,” the concept of “mechanism of state regulation” is distinguished, which in essence is “a complex system of political, economic, social, organizational, and legal factors aimed at achieving set goals, which has a certain structure, a set of material and financial resources, legal norms, methods, means, and instruments of state influence on the object of management.” [6, p. 11].

In [6], O. Melnykova and Ju. Oliynyk provide a classification scheme for methods of state regulation of higher education and identify financial, organizational, economic, social, and administrative and legal mechanisms of state and public regulation, which are based on certain instruments, methods, and forms of state regulation [6, p. 11].

In turn, P. Aliyeva draws attention to the organizational and legal mechanism of international activities of higher education institutions, which is expressed in the unification of “international legislation in the field of education through the signing of multilateral international state agreements.” [1, p. 94]. The need for these agreements is dictated by the imperative to harmonize and coordinate the regulation of certain aspects of educational activities between states, since national education systems interact at direct and indirect levels. The direct level is characterized by direct interaction between actors, while the indirect level manifests itself in internal dialogue between educational subsystems on the interchangeability and standardization of the basic elements of the educational space. [1, p. 95]. In addition,

state regulation of the commercialization of educational services, combined with maintaining the quality of higher education, ensuring access to it, and protecting the interests of students, has gained recognition in the international market for educational services. This process is managed by the World Trade Organization (WTO) in the context of the General Agreement on Trade in Services (GATS). [1, p. 100].

However, the latter issue, in the context of equating education with trade relations, is quite controversial in the international community. In [1], P. Aliyeva pays separate attention to the relevant specifics, contradictions in understanding educational services as a subject of international trade, as well as economic and managerial mechanisms of state regulation of certain types of international cooperation in higher education. The latter work also highlights the financial mechanism of state regulation of international cooperation between higher education institutions, since “the entrepreneurial activity of higher education institutions in the field of contract-based training of foreign students contributes to maintaining a constant contingent of buyers of educational services and is one of the most reliable and stable sources of funding for international cooperation for many Ukrainian state higher education institutions.” [1, p. 142]

Finally, let us turn our attention to models of state regulation, among which O. Melnykova and Ju. Oliynyk highlight the following [6, p. 10]:

- supervision (reporting by higher education institutions to state authorities in accordance with applicable law);
- competition (for financial resources, applicants, etc.);
- interaction (consensus-based decision-making with the educational and/or scientific community) and restraint (constant monitoring, anti-corruption measures, etc.). [6, p. 10]

The main concepts here are “the dominance of state authorities in the management of higher education,” “the growth of individualization of educational services by providing them on a paid basis and meeting the needs of a certain category of citizens”, as well as innovations. [6, p. 10]

Thus, ensuring of international cooperation in higher education in Ukraine is characterized by a combination of predominant legal regulation with the patterns and mechanisms of the modern economy and management.

## **2. Legal ensuring for international cooperation in higher education.**

A number of researches of domestic legal scholars have been devoted to the issue of administrative and legal regulation of certain areas of higher education or international cooperation.

In the context of this research, it is appropriate to review existing views and ideas on the classification of administrative and legal forms and methods of ensuring legal relations related to international cooperation in higher education. Our focus is on the quality of higher education, international cooperation in the field of physical

culture and sports, state regulation of higher education, and the limits of internationalization of higher education.

O. Melnykova and Ju. Oliynyk note that the administrative and legal mechanism of state regulation in the field of higher education is based on the development, adoption, and observance of national and international legal documents concerning the rights, obligations, and responsibilities of legal entities in the field of higher education, the extent of state influence on these legal relations, conditions for investment, etc. [6, p. 12]. They include the following instruments of relevant state regulation [6, p. 12-13]:

- forecasting, the procedure for forming state orders, quotas, and assessing the cost of training one higher education applicant;

- “standardization of higher education content” as the establishment of regulatory requirements for educational and professional qualification standards;

- “licensing, accreditation, certification, and professional development of scientific and teaching staff.” [6, p. 13];

- organization of the admission campaign [6, p. 13];

- conducting state audits (financial, accountability, and performance) [6, p. 13];

- the development of international cooperation and academic (professional) mobility of participants in the educational process [6, p. 13].

In turn, V. Kravets notes the following characteristics of modern administrative and legal regulation of higher education quality assurance: development through democratic values in the context of forming a culture of quality; priority of self-assessment; involvement of a large number of stakeholders in external quality assessment procedures; the predominantly non-coercive nature of legal norms regarding education in unregulated professions, while in regulated professions (e.g., military training), the use of “more prescriptive rather than recommendatory means of administrative influence” can be observed. [4, p. 70].

A. Dikhtiaruk adds to the last point, emphasizing that the autonomy of higher education institutions is the main legal mechanism that defines the limits of the internationalization of domestic higher education. It is the combination of autonomy with the regulatory and legal definition of state control over the quality of education and language policy that determines the balanced functioning of the domestic education system, since increased supervision or complete liberalization (in the absence of a regulatory function) of internationalization can lead to negative consequences in the field of higher education. [2, p. 276]

As for higher education institutions within the system of the Ministry of Internal Affairs of Ukraine, the administrative and legal forms of ensuring the quality of their educational activities were considered by S. Potopalskyi in [7]. According to his explanations, administrative and legal forms represent “the external manifestation (practical manifestation) of managerial actions, measures of an external and internal nature” to

ensure the proper functioning of the relevant sphere of social relations. In this context, the forms under consideration include administrative rule-making, licensing and accreditation, inspection, as well as the professional development of scientific, pedagogical, and teaching staff. In turn, administrative and legal methods of appropriate provision represent “ways and means of managerial influence of competent entities on the educational activities of these institutions in order to ensure their compliance with legislative requirements and guarantee the right of higher education seekers to receive educational services of an appropriate level of quality” [7, p. 51]. In his research, S. Potopalskyi suggests classifying these methods as follows [7, p. 51]:

- depending on the nature of the provisions: prohibitions, prescriptions, permissions, and recommendations;

- depending on the “nature of the verification and method of obtaining data”: licensing and accreditation expertise, audit, inspection, and professional training certification. [7, p. 51].

A similar approach, but in the context of higher military educational institutions, was used by V. Kravets, who identified the following components of the administrative and legal basis for ensuring the quality of educational activities and educational activities [4, p. 70]:

- general and additional procedures for external quality assessment (the first type includes standardization, licensing of educational activities, institutional accreditation, and accreditation of educational programs; the second type includes institutional audit of professional military education and licensing of educational programs) [4, p. 70];

- administrative law norms (laws and subordinate acts, which, according to V. Kravets, “are mainly represented by ... resolutions of the Cabinet of Ministers of Ukraine, orders of the Ministry of Education and Science of Ukraine, and the Ministry of Defense of Ukraine”) [4, p. 70].

Special attention should be paid to O. Usyk's research on the meaning of the concepts of “administrative and legal forms” and “administrative and legal methods in the context of international cooperation in the field of physical culture and sports.

According to Usyk's opinion, administrative and legal forms demonstrate the practical content and purpose of relevant social relations. In turn, administrative and legal methods describe the tools used by authorized entities to ensure these social relations [10, p. 126]. That is, the practical implementation of administrative and legal forms, which by their nature reflect the practical content of the legal relations under study, requires the use of a special set of administrative and legal methods [10, p. 117].

Considering the administrative and legal forms of ensuring international cooperation, O. Usyk notes that the latter represent “external, practical models of law enforcement activities of authorized public administration entities, defined and regulated by administrative legislation, aimed at creating legal,



organizational, economic, and other conditions for the effective and high-quality functioning of the relevant cooperation.” [10, p. 110]. In the context of physical culture and sports, the relevant administrative and legal forms include subordinate rule-making, material and technical support, coordination, other legally significant administrative actions, and financing of measures to ensure international cooperation. [10, p. 110-117].

Taking into account the peculiarities of international cooperation in the field of higher education in Ukraine [8, 9], let us consider its types of administrative and legal forms of support.

The first such administrative and legal form is rule-making.

Indeed, in the context of administrative law, rule-making is “the activity of specially authorized state authorities aimed at developing, adopting, registering, and issuing normative legal acts, the norms of which ensure the regulation of social relations in a particular sphere of public life.” [10, p. 112].

However, in the context of the latter interpretation and the specifics of legal relations in international cooperation in higher education, it is advisable to distinguish the following types of rule-making:

- lawmaking within the framework of national law only;
- activities related to the ratification and implementation of international legal documents;
- lawmaking at the international level, in particular the conclusion of international treaties, agreements, etc.

Since “ensuring international cooperation ... is reflected in the work of specially authorized public administration entities, which, in order to organize their activities, as well as to perform their functions and plan future results and implement international agreements, issue subordinate regulatory documents ...” [10, p. 112], let us pay the attention to the content of the category “logistical support” as “operations and mechanisms aimed at forming the resource base for the implementation of international cooperation” [10, p. 113].

In the case of international cooperation in higher education, this category is more complex than in the field of physical culture and sports (for the latter, see [10, p. 113]). Thus, the Law of Ukraine “On Higher Education” uses the term “material and technical base.” According to Article 70 of the Law, the latter “includes buildings, structures, land, communications, equipment, vehicles, official housing, and other material assets” [5]. At the same time, according to Article 70(3)(2) of the Law, material and technical support for the educational process is distinguished separately from its educational, laboratory, and methodological support, and according to Part 7 of Article 71, in the context of the expenses of a higher education institution included in the estimate, reference is made to the material and technical and laboratory base, as well as the provision of licensed software products for educational and scientific activities [5].

Thus, using the example of providing educational and scientific activities of a higher education institution, we

can distinguish its material and technical, educational and laboratory, and educational and methodological support, as well as the provision of licensed software products, etc. Separately, it is worth noting the existence of other components of the material and technical base that are not used to support the educational and scientific process, but are used in the activities of higher education institutions. Therefore, for the sphere of higher education, it is advisable to replace the category “material and technical support” with a broader one – “intellectual and property resources/support” (financial, material, technical, intellectual resources) of subjects of international cooperation, since the existing or developing methodological support, research methodology, and other intellectual results of the activities of scientific and pedagogical (scientific) workers are either the result of intellectual work or an element of intellectual potential.

In addition, in this context, it is extremely important to pay attention to such a well-known nuance of property law regarding an enterprise (institution, organization) and its property complex. According to Article 191 of the Civil Code of Ukraine, an enterprise and its property (everything intended for the implementation of activities) are essentially two-fold and act as a subject in the implementation of activities and an object in the implementation of legal transactions (purchase/sale, lease, pledge, etc.). Moreover, property includes movable and immovable property, rights, debts, etc. [3].

Thus, in the case of higher education and the characteristic autonomy of its individual entities, we cannot separate the property component in the administrative and legal support of international cooperation in higher education from the “owner – legal entity.” That is, in the case of cooperation, we are talking about a certain level of “symbiosis” between the enterprise (institution, organization) and its property complex within the framework of a cooperation agreement. That is, for example, when considering a higher education institution as a subject of cooperation, we combine a legal entity and its “intellectual and property resources/provisions,” as well as, in this case, reputation indicators, external assessments of activities, etc. As for the financing of international cooperation, on the one hand, financial resources are part of the property of one of the subjects of cooperation, and on the other hand, they are the object of legal relations from the point of view of the legal transaction of their transfer. In addition, given the “cross-cutting” nature (when the interests of some entities may be satisfied within the framework of cooperation with others) of the distribution of material resources, it seems appropriate to combine the categories of “improvement of the material base” and “financing” (financing of international cooperation is an administrative and legal form of international cooperation [10, p. 117]).

By establishing a “common denominator” in the context of individuals and legal entities, the form of administrative and legal support is to improve the conditions for the activities of cooperation entities and/or financing of international cooperation.

According to Usyk’s opinion, the coordination

function is also integral and, in our opinion, important. Its essence is expressed in the coordinated direction and supervision of “the activities of entities that interact with each other but are not directly subordinate to each other” [10, p. 115]. Well-known examples of mechanisms for coordinating relations, particularly in the field of higher education, include action plans, development plans, coordination centers for grant programs, etc.

In higher education, a separate specific administrative and legal form of ensuring international cooperation is the autonomy and/or freedom of legal entities in the field of higher education, as defined by law, in combination with a system of state incentives and penalties. Autonomy (e.g., of a higher education institution) or academic freedom (e.g., of a researcher) does not in itself contribute to strengthening international cooperation by the relevant entity. Autonomy or academic freedom are drivers when there is an additional factor that influences the entity regarding the expediency of international cooperation. From an economic point of view, such additional factors may include competition, additional profits, etc. From a legal point of view, examples include licensing conditions, a system of incentives for publications abroad, etc.

Procedures for authorizing educational activities and establishing the limits of such powers (accreditation, licensing, certification, etc., in the context of which requirements for international cooperation are imposed on educational entities), are one of the forms of administrative and legal ensuring for international cooperation.

Finally, another specific administrative and legal form of higher education in terms of ensuring international cooperation is the recognition by public administration entities of rankings and certain national and international ratings of higher education institutions (mainly higher education institutions).

Let us consider administrative and legal methods of ensuring international cooperation, which are a set of “instruments, methods, means, and measures defined in the norms of administrative law, implemented by specially authorized entities, through which they create conditions and organize the actual implementation of effective international cooperation.” [10, p. 120]. In particular, in the field of physical culture and sports, “the system of these methods consists of the following: “statistical and accounting method; planning; communication and information method; control”. [10, p. 120-124]

The statistical accounting method is reflected in the processing of information for the purpose of “determining the quantitative and qualitative indicators of the functioning of an object, activity, mechanism, etc.,” and its subject is “information on the quality and progress of the implementation of measures provided for by agreements within the framework of international cooperation.” [10, p. 121].

Planning as a method of administrative and legal support is used to determine strategic measures,

actions, and operations that must be implemented by entities responsible for the proper functioning of international cooperation. The method includes the development and approval of relevant strategies, plans, etc. [10, p. 122-123].

“The communication and information method ... combines methods, means, and measures of communication and explanation of information regarding the goals of cooperation, its positive significance, future functional plans, etc.” The method consists of creating working groups, publishing methodological materials, etc. [10, p. 123]

The control method is “a method of checking an object for compliance with the relevant standards, rules, and requirements, identifying deviations, and establishing and correcting the causes that led to their occurrence” [10, p. 124]. This method is implemented through systematic checks by authorized entities on the status and quality of the implementation of international cooperation tasks [10, p. 125]. In this context, one can cite the example of accreditation and licensing expertise, professional training certification, control by the Cabinet of Ministers of Ukraine, etc.

The rating as a method promotes international cooperation by publicly disclosing quantitative and qualitative performance indicators of individual entities in priority areas of activity.

The method of public administration of international competitions/programs is implemented by involving state executive bodies (e.g., the Ministry of Education and Science of Ukraine) and/or state institutions (e.g., the National Research Fund) in organizing and conducting joint scientific competitions, academic exchanges, etc. with international partners.

**Conclusions.** The modern stage of development of social relations and higher education as their variety is characterized by the introduction of market economy models, the “expansion of boundaries” of legal relations beyond state borders, democratization, and a focus on human rights, etc. These recent processes, combined with the study of languages of international communication by participants in the educational process, contribute to the strengthening of international cooperation in the field of higher education. Additional factors of the latter should include the following: competition between legal entities; common interests; the development of educational and scientific activities and technical progress, which is impossible without globalization; political will to promote international cooperation; etc. Regarding the latter factor, it should be noted that the focus on integration processes and fair competition in higher education is driven by the political will to expand international cooperation in this area, as well as by the focus of state policy on removing barriers to educational, scientific, and innovative activities within state borders. Indeed, the principles of international cooperation as an element of state policy in the field of higher education are enshrined in legislation and ratified international legal

documents, and the implementation of this policy is detailed in subordinate regulatory acts. The latter form the basis for administrative and legal support and state regulation of legal relations in the field of international cooperation in higher education.

Thus, based on the investigations of the regulatory framework and scientific concepts of a

number of researchers in the fields of economics, law, and public administration, it is reasonable to conclude that international cooperation in higher education in Ukraine is characterized by a combination of prevailing legal regulation with the patterns and mechanisms of the modern economy and management.

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