

IMPROVING THE LEGISLATIVE AND REGULATORY SUPPORT OF HIGHER EDUCATION INSTITUTIONS IN UKRAINE

MELHORANDO O APOIO LEGISLATIVO E REGULATÓRIO DAS INSTITUIÇÕES DE ENSINO SUPERIOR NA UCRÂNIA

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Received: 05 Jan 2023

Accepted: 26 Feb 2023

Published: 10 Mar 2023

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Abstract: Improving the legislative and regulatory support of higher education institutions (hereinafter HEIs) in Ukraine is a priority for the state to build a competitive and efficient education system and ensure the development of human capital in the long term. The problem of regulatory and legal support concerns the imperfect regulation of the functioning of HEIs and insufficient funding for the development of their own infrastructure and scientific community. The article aims to analyze the problematic aspects of the regulatory and legal framework and to search for tools to improve the quality of legal support for HEIs. An important research direction is to determine the key principles for building an effective legal mechanism for regulating the activities of HEIs and increasing their competitiveness with a focus on the state vector of development and European integration. Improvement of legislative and regulatory support, based on the results of the study, should be carried out through reforms and the adoption of a global strategy for the development of Ukrainian education. The article analyzes the peculiarities of the legal and regulatory framework and outlines the main shortcomings. Furthermore, due attention is paid to measures and tools for the development of HEIs from the legal point of view. The research methodology is based on the use of various scientific research methods and analysis of regulatory legal acts to identify their shortcomings and opportunities for improving the policy of legal support for the activities of HEIs. These problematic aspects of the activities of higher education institutions in Ukraine can be key factors for eliminating shortcomings and becoming a means of building an effective education system.

Keywords: Regulatory support, Legal framework, Higher education institutions, Human capital, Legal regulation, Scientific community.

Resumo: Melhorar o apoio legislativo e regulamentar das instituições de ensino superior (doravante IES) na Ucrânia é uma prioridade para o Estado construir um sistema educacional competitivo e eficiente e garantir o desenvolvimento do capital humano a longo prazo. O problema do suporte regulatório e legal diz respeito à imperfeita regulamentação do funcionamento das IES e ao financiamento insuficiente para o desenvolvimento de sua própria

infraestrutura e comunidade científica. O artigo tem como objetivo analisar os aspectos problemáticos do marco regulatório e legal e buscar ferramentas para melhorar a qualidade do suporte legal para as IES. Uma importante direção de pesquisa é determinar os princípios-chave para a construção de um mecanismo legal eficaz para regular as atividades das IES e aumentar sua competitividade com foco no vetor estatal de desenvolvimento e integração europeia. A melhoria do apoio legislativo e regulatório, com base nos resultados do estudo, deve ser realizada por meio de reformas e da adoção de uma estratégia global para o desenvolvimento da educação ucraniana. O artigo analisa as peculiaridades do quadro legal e regulamentar e aponta as principais deficiências. Além disso, é dada a devida atenção às medidas e ferramentas para o desenvolvimento das IES do ponto de vista legal. A metodologia de investigação assenta na utilização de diversos métodos de investigação científica e na análise dos atos normativos para identificar as suas lacunas e oportunidades de melhoria da política de apoio jurídico às atividades das IES. Esses aspectos problemáticos das atividades das instituições de ensino superior na Ucrânia podem ser fatores-chave para eliminar deficiências e se tornar um meio de construir um sistema educacional eficaz.

Palavras-chave: Suporte regulatório. Marco legal. Instituições de ensino superior. Capital humano. Regulação legal. Comunidade científica.

1. Introduction

The issues of development and improvement of legislative and regulatory support for the activities of higher education institutions in Ukraine play a key role, as they directly affect the quality of the educational market and are of strategic importance to the state. The current policy of government agencies has proven to be ineffective. This calls for an analysis of possible tools and means to improve the quality of functioning of HEIs to ensure human capital development and proper legal support for the education market. Ukraine is experiencing a negative trend in the outflow of intellectual capital, and this issue is becoming extremely relevant due to the war. Under such circumstances, to establish an effective scientific environment and integrate it with the corporate and public sectors, there is a need to develop high-quality regulatory and legal support. Ukrainian legislation has gaps in the regulation of the activities of HEIs and their distribution. One of the key problems of the current policy is insufficient funding and investment in research and development and building proper infrastructure for HEIs. To address this issue, government agencies and scientists are paying attention to improving funding and investment in special research and development and building proper infrastructure for HEIs. This will improve the quality of the scientific environment and create opportunities for professional activities in the Ukrainian educational space. Problematic legal issues related to staffing and the rationality of granting or obtaining accreditation are also identified. The lack of a transparent mechanism and possible monitoring leads to negative aspects in the activities of HEIs, which negatively affects the development of human capital. The creation of a high-quality

regulatory framework for higher education institutions in Ukraine is a key factor in ensuring the efficient operation of the economy and strengthening cooperation between the scientific community and the corporate sector. Despite positive developments in the field of legal policy and legislative and regulatory support for HEIs, there is still a need to form an effective legal mechanism for regulating their activities and identifying key aspects of further development.

The purpose of the article is to conduct an analytical study of the possibilities of improving the legislative and regulatory framework for the activities of HEIs in Ukraine. The key principles for achieving this goal are to identify negative trends in the construction of a functioning legal framework and opportunities for its further development. An important area of research is the formation of an effective legal mechanism. This will strengthen the role of HEIs in independent decision-making and transparent policy of monitoring the use of financial resources. The article analyzes the problem of financing higher education institutions and identifies weaknesses in the regulatory and legal framework. Furthermore, the author provides tools for improving the legal framework for financing HEIs. The development and improvement of legislative and regulatory support are one of the priority directions of the study. Moreover, its results may become a factor in improving the quality of functioning of HEIs.

2. Literature review

The issue of improving the legislative and regulatory support for the activities of higher education institutions in Ukraine has been studied by Ukrainian scholars who have formulated practical proposals to improve the quality of functioning of higher education institutions. However, due to the current geopolitical challenges and the lack of decisive action by public authorities to reform the regulatory and legal support of higher education institutions, there is a need to analyze the prospects for their development. Buhaichuk (2022) noted that the key aspect of the current development of regulatory and legal legislation in the field of higher education institutions is the lack of an effective mechanism for its regulation. Nazarchuk (2022) conducted a study of the current state of human rights protection, identified the problems of its implementation, and proposed methods for solving the issue of human rights protection. Bound (2021) believes that one of the main tools for the development of Ukrainian education is the creation and use of an investment fund to provide funding to higher education institutions. Etherington (2019) studied the problem of financing. He determined that HEIs in Ukraine need significant improvement from the legal perspective, as well as the rationality of the distribution

of budgetary financial resources. According to Park (2020), funding is a prerequisite for the development of the scientific environment and the possibility of improving its work in the strategic directions of the state. The regulatory and legal aspect was studied by Goulart (2022). He believes that the key problem of Ukrainian legislation is the lack of clear regulation, division, and definition of the legal framework for the activities of universities, academies, colleges, and institutes. According to Ross (2019), modern HEIs need not only adequate funding but also changes in internal policies for human capital development. According to Lihuzova (2017), the geopolitical challenges of our time lead to an increase in the role of the state legal mechanism and the state's presence in the activities of higher education institutions. They will be of strategic importance for the development of human capital and ensuring the use of scientific domestic developments and technologies that will be used in specialized directions. In particular, according to Solas (2018), problems in the regulation of higher education institutions arise from bureaucracy and ineffective amendments to existing draft laws that are created without a proper understanding of the legal status of higher education institutions and their further development. Stadnyi (2019) studied the issue of having a global education development strategy in Ukraine. He noted that for the effective functioning of HEIs, there is a need to have a global development strategy that will contribute to the efficient use of resources and increased attention from local governments to their use. According to Shanwei (2017), the human resources of the scientific community and the need to change the legal mechanism of accreditation remain important issues. These issues have a direct impact on the quality of the scientific community and can make it more transparent. Scientific research on the issue of improving the legislative and regulatory support for the activities of HEIs in Ukraine shows that the State's legal policy is imperfect and that there is a need to change approaches to its organization. In such circumstances, the study of the formation of regulatory and legal support for the activities of HEIs remains an important topic for research.

3. Methodology

In the course of writing this article, the author analyzed regulatory and legal materials and conducted a study of modern scientific views on the status of higher education institutions in Ukraine from the legal point of view. The analysis of the problems of functioning of higher education institutions and opportunities for its further development was based on the materials

of analytical reports. The works of Ukrainian scholars were used to outline the key principles of building a regulatory framework that will serve as a development factor for higher education institutions in Ukraine. Based on the methods of scientific research, the author analyzes the theoretical and practical foundations of the development of the legal mechanism for regulating the activities of higher education institutions. The issues of interaction between higher education institutions and businesses are studied with due regard to the possibility of using special scientific developments in the corporate environment. The article pays attention to the legal issue of regulating the protection of intellectual property and its development in the context of the dynamic Ukrainian legal environment. Based on the method of synthesis, the author analyzes the key actions of public administration bodies in the field of education and reforms aimed at changing the legal policy in the field of higher education. The search method was used to collect legal acts and scientific research by Ukrainian scholars for further analysis. The policy of public administration bodies on financing HEIs is ineffective, as evidenced by acute problems in the organization of innovation and technology development, as well as in the functioning of the educational process. The use of the induction method made it possible to provide measures that can be used to improve the legal framework for the functioning of HEIs. Attention is paid to the possible vectors of development of the policy of financing talented youth, and the creation of special grant programs that will be applied in HEIs at the legislative level.

4. Research

The development of legal regulation and support of HEIs in Ukraine is a priority, as it will directly affect the level of human capital formation, improvement of the quality of life, creation of scientific and technical developments, and implementation of innovations. The activities of modern HEIs in Ukraine are driven by legal reforms. These reforms were implemented during 2018-2020 and had both positive and negative impacts on the public space. The activities of higher education institutions have a negative trend of inefficient financing and unreasonable use of budget funds, as well as inadequate resource allocation and inconsistency with Ukraine's policy in this area. The war has led to transformation measures that have contributed to the inadequacies of most higher education institutions. This has led to the need for significant reforms in the organization of the educational process and opportunities to improve the quality of curriculum development. A problematic aspect is the definition of the

legal framework and specifics of the activities of key academic institutions in Ukraine, which are usually classified as universities, institutes, academies, and colleges. The use of such a division has direct implications for the quality of the education system and the construction of legal regulation. It will be implemented based on monitoring and other aspects of the educational process.

The problem of modern Ukrainian higher education institutions is primarily related to the Law of Ukraine "On Scientific and Scientific-Technical Activities", which was adopted in 2015. However, amendments to this legal act were made over the next few years, by 2020. The key problematic aspects are the imperfect definition of financing and capital accumulation in HEIs, as well as the financing of special scientific and technical developments and the possibility of using them to improve business performance. Technical issues and the possibility of implementing scientific developments in Ukraine have become key factors in reducing the quality of education and interest in professional activities. Low spending on research causes delays in the development of research projects and a lack of interest among scientists in their professional activities. This can lead to an outflow of intellectual potential abroad to technology markets. This negative trend requires a review of the state policy in the field of science funding, as well as the development of human potential and strengthening of the role of the educational process. It is necessary to integrate the educational process into the business environment in Ukraine to stimulate innovation and human capital development.

Besides the problems of the functioning of HEIs, there is a problem with defining the principles of legal functioning, regulation, and identification of the activities of such institutions. There are gaps in the legislation on the functioning of HEIs and the possibility of their further development. This affects their positioning in the international market and their development in the current environment. An important issue is the lack of relevant regulations and bureaucracy in the Cabinet of Ministers of Ukraine, which complicates the creation, development, and implementation of the necessary regulations.

The quality of human capital training, the formation and development of innovative processes in Ukraine, and the improvement of education remain important areas of activity for both HEIs and the educational process in Ukraine. The level of education in 2019-2021 dropped significantly due to the coronavirus pandemic and the spread of distance education as an innovative practice of organizing the educational process. However, most HEIs were not ready for such innovations, in particular, due to the lack of digital infrastructure for organizing the educational process, limited opportunities to regulate the educational process, determine the

number of hours for a particular discipline, build a curriculum, etc. The organization of the educational process at the legislative level and the functioning of higher education institutions are becoming the primary tasks for its improvement and further development. Besides these aspects, there is the issue of ensuring the quality of the educational process and full-time education in the context of war, taking into account financial obligations for the existing infrastructure to ensure the safety and security of both staff and students. The use of budgetary funds for the organization of the educational process should be enshrined in law and carried out through public tenders with the possibility of monitoring and control to prevent corruption.

The use of the European Union's experience is important for Ukraine, whose strategy includes European integration. In this regard, the creation of specialized commissions and the use of practical experience in the development and reform of the education system will be of strategic importance for the country, as this approach will help to achieve the norms and standards of the EU. By creating registers of HEIs, regulating their activities, setting standards and norms for their functioning, and developing a global education competitiveness index, the key foundations for building quality education in Ukraine can be created. This will help to improve the competitiveness of HEIs and their integration into the European educational space.

The law "On Higher Education" of August 01, 2014, and its reforms in 2017 and 2020 are worth considering. This involves improving the terminological aspect of the functioning of higher education institutions and the ability to conduct professional activities in the modern Ukrainian environment. The problematic nature of the draft law has become a factor in the lack of a quality policy to define aspects of higher education institutions' activities in certain scientific areas, to develop effective corporate governance practices, and to increase interaction with business. The draft law "On Science Parks" addresses the issue of corporate governance, but its lack of legal provisions on regulation and proper financing is a key problematic aspect of the quality of activities and the formation of an appropriate educational level in Ukraine.

The peculiarities of HEIs in Ukraine create prerequisites for identifying key aspects of the direction of reforming the policy of development of the educational process and opportunities for its improvement under EU standards. A rational approach to the division of issues related to the use of legal norms makes it possible to create commissions or monitoring bodies to improve the relevant draft laws per the sectoral focus. Thus, the key problems of the legal activities of HEIs in Ukraine are shown in Figure 1.

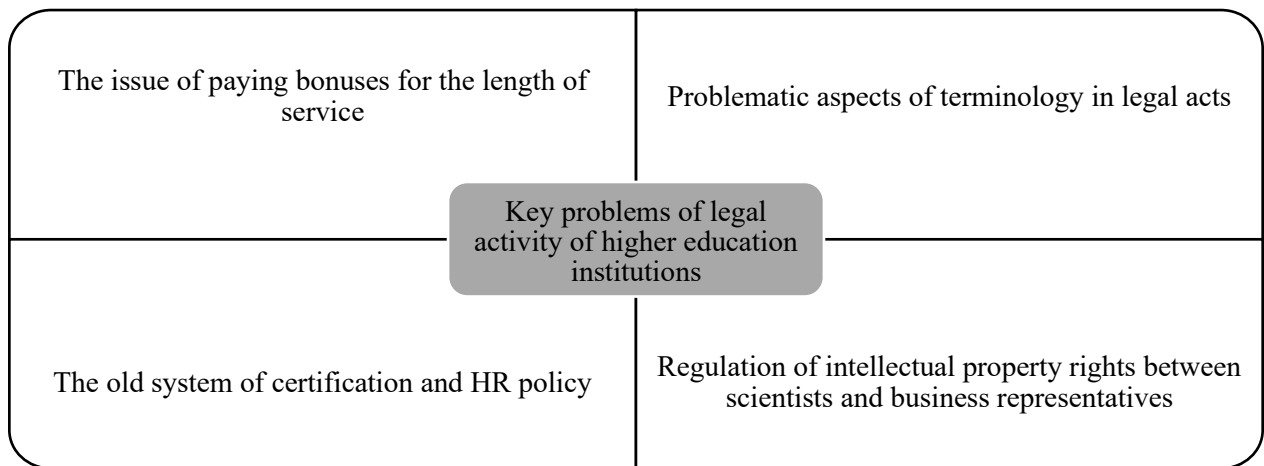


Figure. 1. Key problematic aspects of legal activities of HEIs in Ukraine

Source: compiled by the author

The problematic directions of legal activity of HEIs outlined in Figure 1 should become a factor for improving the legal mechanism for regulating the activities of higher education institutions, as well as strengthening the responsibility of state bodies for the implementation of development policy. The lack of a clear strategy for the global development of the educational process in HEIs will remain an important issue. Such a strategy will be of strategic importance for Ukraine. Due to the war, Ukraine is facing a significant migration crisis. It is causing an outflow of human and intellectual capital, which negatively affects the future of the scientific sector in Ukraine. The lack of financial resources to stimulate and develop education in Ukraine causes the integration of human capital from education into more attractive areas of business or any other field, which leads to a shortage of professional staff. To eliminate this problem, it is necessary to improve the quality of funding for talented young people at the regulatory level and to educate future scientists today. Improving the quality of the state's investment policy in human capital can be realized with the help of HEIs, which will be encouraged to engage in scientific activities based on their programs. In particular, in 2021, bills aimed at improving the quality of funding for scientific research and financing of scientific activities in Ukraine were adopted. During the war, the social policy became the second factor in public spending, with one of the leading aspects being education and ensuring the quality of HEIs. This policy creates a long-term strategy to improve the development of demographic, educational, and strategic policies.

The problem of ensuring the activities of higher education institutions in Ukraine also lies in the lack of an effective mechanism for protecting intellectual property and the possibility of its development following current trends and needs. A key aspect is the use of scientific

developments by businesses and the introduction of innovations through cooperation with higher education institutions under shadow schemes. They are not subject to clear legal regulation which leads to a lack of legal protection of intellectual property. Establishing an institution or body to manage these issues can help improve the quality of the HEI and the overall corporate sector. The practice of the European Union shows that in developed countries, the scientific environment and the corporate sector interact closely. This leads to investments in the scientific community and higher salaries and special allowances, which are stimulated by the state and implemented through interaction with the corporate sector. The introduction of such a practice should be implemented through public administration and implemented in the Ukrainian space, as it can increase the competitiveness of domestic HEIs.

In 2020-2022, the decentralization policy became an important factor in building an effective education system. It has enabled effective management of the education sector and improvement of its performance following the regulatory framework. The use of decentralization is a factor in reducing bureaucracy and the possibility of building an effective educational system, as well as solving problematic issues in the functioning of HEIs. The reform of the effective decentralization policy was completed in 2022. However, its implementation requires additional measures to properly regulate the activities of HEIs, monitor educational and corporate activities, and establish close cooperation between educational institutions and local governments.

The regulatory and legal support of HEIs also includes the specifics of human resource development and the policy of accreditation. The unclear system of formation regarding the awarding of academic titles and the use of educational institutions in times of war and policy needs significant reform. In particular, the creation of special commissions to monitor and control the granting of such rights to researchers and the awarding of titles should be a qualitative direction for improving the accreditation policy. Strengthening the quality of cooperation between HEIs and education authorities, as well as defining the legal framework for each of them. This policy can improve both the specifics of HEIs and the overall process of organizing higher education.

Implementing a policy to improve the regulatory framework for HEIs will be of strategic importance for the development of the state in the post-war period. The problem of migration and the outflow of intellectual capital will become key issues for Ukraine. Therefore, the elimination of the consequences of these problems and the development of a legal mechanism should be carried out now. Proper focus on areas of improvement can help to eliminate the

negative effects of the adopted laws in 2015-2020, as well as improve the reform policy in 2020-2021. Most of the amendments to the draft laws were ineffective and failed to ensure the transparent operation of HEIs. Therefore, the key areas for improving the regulatory and legal support for the activities of HEIs are shown in Table 1.

Based on the proposed measures shown in Table 1, it is necessary to develop and implement an effective legal mechanism to ensure the functioning of higher education institutions. This is a key issue that can improve the organization of the educational process, facilitate cooperation between academia and business, and accelerate the process of European integration of Ukrainian education. The use of these principles is also of strategic importance for the development of human capital in Ukraine and the resolution of acute problematic issues regarding the possibility of allocating financial resources and their appropriate use. The decentralization policy should be based on a prompt response and resolution of key issues related to the activities of HEIs. Using this practice will help to eliminate the negative features and practices that are currently used and can improve the performance of HEIs.

Table 1. Directions for improving the regulatory and legal support of HEIs

The scope of regulation	Characteristics
Promoting the absence of monopolization	The problem lies in improving the quality of educational services, conducting a transparent admission competition, and assigning monitoring rights to specially created commissions.
Determining the structure of accreditation and specialized training	The clear legal distinction between institutes, academies, universities, and sectoral educational institutions (colleges)
Reforming the system of HEIs with a mixed form of education	Strengthening the role of distance education, consolidating provisions at the regulatory level
Improvement of the Law of Ukraine "On Higher Education" dated 01.07.2014 No. 1556-VII	Developing a long-term strategy for the development of higher education in Ukraine, creating special strategies for such development, and strengthening monitoring of its implementation
Integration into the EHEA (European Higher Education Area)	Following the experience of the European Union to strengthen the quality of higher education in Ukraine

Development of the Law "On Science Parks"	Regulation of clear identifiers of corporate governance by such bodies, regulation of their activities, and formalization
Strengthening the role of funding and promoting the development of internal policy grants for HEIs	Improving the quality of education in Ukraine through the use of financial and investment projects and promoting the development of talented youth

Source: compiled by the author

Thus, it can be concluded that the regulatory and legal support for the activities of HEIs in Ukraine requires significant improvement both in the legal field and in the organization of the distribution of financial resources. An important aspect is the implementation of a high-quality policy on the accreditation of researchers, increased funding for talented young people, and the creation of a mechanism for protecting intellectual property. For strategic development, Ukraine needs close cooperation between the scientific community and business. The introduction of special scientific developments and research can be a factor in improving the quality of socio-economic policy and be key to stabilizing the situation in the country. To implement such principles, a prerequisite is the creation of high-quality and effective regulatory and legal support for the activities of HEIs and the organization of education in Ukraine.

5. Discussion

The conducted research shows that in the current conditions of development of higher education institutions, the key aspect of ensuring their effective functioning is to build a regulatory framework and create preconditions for further development. A key area for further research should be the possibility of implementing the experience of developed countries in the Ukrainian space. An important area for reforming the regulatory framework may also be the analysis of the introduction of innovations in the field of regulation and regulation of Ukrainian HEIs. Furthermore, the policy of analyzing the regulatory framework can be a factor in improving the quality of terminology and drafting of legal acts in this context of the study. The findings indicate that there are gaps in Ukrainian legislation that affect the proper functioning of HEIs. In such conditions, there is a need for specialized analytical studies that can identify key shortcomings in Ukrainian legislation and suggest ways to eliminate them.

An important issue is regulatory and legal support for the introduction of financial support for the quality organization of higher education institutions and the financing of talented youth. Research aimed at improving the qualitative foundations of higher education policy will serve as a factor in ensuring the competitiveness of Ukrainian education and will also become the basis for human capital development. The key problems of Ukrainian higher education institutions are insufficient funding for special scientific research and a low level of incentives for researchers to pursue their professional activities. This is due to low salaries, non-transparent legislation on teaching allowances, and other factors. The migration wave in Ukraine has become a threat to the further development of the scientific community. Therefore, the problems of financing and approving the provision of an effective educational environment at the legal level should be a priority for research. Conducting analytical research on HEIs can become a factor in the development of their activities in the current instability and serve as a vector of development for Ukraine.

The possibility of developing cooperation between business and academia remains an essential open question. However, to ensure effective cooperation, a clear regulatory mechanism should be introduced to regulate the economic and legal sphere of such relations. The policy on intellectual property rights protection in Ukraine is not at a perfect level, which necessitates research, opportunities for its improvement, and the creation of a monitoring and control apparatus. In particular, at the legal level, it is necessary to introduce some regulations that will eliminate negative factors for the activities of higher education institutions in Ukraine. Furthermore, the problem of war and its consequences harm the general state of the educational and socioeconomic environment. Therefore, research on the legal support of the scientific environment and the corporate sector will be a priority in strategic activities.

6. Conclusion

Thus, it can be concluded that the current system of regulatory and legal support for the activities of Ukrainian HEIs requires significant attention from government agencies and improvement of the means of its development. HEIs require quality funding and monitoring of resource allocation to build educational infrastructure and create conditions for the development and enhancement of human capital. The problem of human capital outflow in Ukraine is a top priority. Problematic legal aspects cause corruption factors, the inability to act under the law, and

create obstacles to the effective development of HEIs. In particular, there are gaps in the regulatory framework for HEIs, both in terms of terminology and law, regarding the functioning of such institutions, their division, and the possibility of using certain rules and regulations adopted at the public level. An important aspect of the current legal framework in the field of education is the use of initiatives that have been implemented in cooperative cooperation with European development agencies. Establishing a global development strategy for HEIs will be key and will have long-term benefits. Its use can outline both the directions for reforming the sector and the basis for its further development. Moreover, a modern aspect of improving the quality of HEIs' activities may be the drafting of laws on the components of science parks, the specifics of their functioning, and corporate governance. Furthermore, the introduction of a mechanism for protecting intellectual property and improving the quality of the legal framework will be of priority for the development of the scientific community. Due to the war, Ukrainian education also needs additional investments to support talented youth and promote the development of innovative scientific research. This will be of strategic importance for both the state and the corporate sector. Therefore, building an effective legal mechanism in this area also remains a strategic task. Despite the problematic aspects in the regulatory and legal support of HEIs, reforming the education system remains a priority for the state. It has a direct impact on the development of human capital and the competitiveness of the national economy in the long run.

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