

LEGAL REGULATION OF PROFESSIONAL TRAINING OF BACHELORS
IN THE FIELD OF LAW AT THE UNIVERSITIES OF CANADA AND UKRAINEПРАВОВЕ РЕГУЛЮВАННЯ ПРОФЕСІЙНОЇ ПІДГОТОВКИ БАКАЛАВРІВ
У ГАЛУЗІ ПРАВА В УНІВЕРСИТЕТАХ КАНАДИ ТА УКРАЇНИ

The article presents a comparative analysis of the legal regulation of professional training of bachelors in the system of higher legal education in Canada and Ukraine, which aims to outline the common and distinctive characteristics of this aspect of university education in the studied countries. The research has demonstrated that the professional training of future lawyers in Canada and Ukraine is regulated both by international and state documents.

It is discovered that higher legal education in Canada is characterized by decentralization, the absence of a single law on higher education and a state standard. It is emphasized that the development and implementation of normative and legal regulation in the field of education is implemented by the legislative power of individual provinces and territories, taking into account world, national educational trends and regional peculiarities. It is noted that Canadian law schools have relative autonomy, which enables the independent development of educational programs and curricula, as well as the choice of methods of teaching, learning, assessment and certification of undergraduates in the field of law.

The article outlines the main components of the regulatory framework of higher education of Ukraine, which reveal a tendency towards gradual retreating from the centralized management of the higher education system and introducing the principles of democratization, autonomy and personalization of the educational process. The steps taken at the state level within the framework of reforming the system of higher legal education in Ukraine are characterized. In particular, the meaning and content of the approved occupational standard for the specialty 081 "Law" of the field of knowledge 08 "Law" for the first (bachelor's) level of higher education and the developed draft law "On legal education and general access to the legal profession" are specified. As a result of analyzing the legal regulation of the professional training of bachelors in the field of law at the universities of Canada and Ukraine, recommendations are provided for managers in the domestic educational sphere regarding the use of the best examples of Canadian experience in the context of managing higher legal education in our country.

Key words: professional training, bachelor, law, legal regulation, Canada, Ukraine.

У статті представлено порівняльний аналіз правового регулювання професійної

підготовки бакалаврів в системі вищої юридичної освіти Канади та України, що має на меті окреслити спільні та відмінні характеристики цього аспекту університетської освіти досліджуваних країн. Дослідження показало, що професійна підготовка майбутніх юристів у Канаді та Україні ґрунтується як на міжнародних, так і на державних документах.

З'ясовано, що вищій юридичній освіті в Канаді притаманна децентралізація, відсутність єдиного закону про вищу освіту та державного стандарту. Наголошено, що розробка та впровадження нормативно-правового регулювання в освітній галузі реалізується законодавчою владою окремих провінцій і територій, зважаючи на світові, національні освітні тенденції та регіональні особливості. Зазначено, що правничі школи Канади володіють відносною автономією, що уможливляє самостійну розробку освітніх та навчальних програм, а також вибір методів викладання, навчання, оцінювання та форми атестації здобувачів вищої освіти у галузі права.

У статті окреслено головні компоненти нормативно-правової бази вищої освіти України, що виявляють тенденцію до поступового відходу від централізованого управління системою вищої освіти та впровадження принципів демократизації, автономізації та персоналізації освітнього процесу. Охарактеризовано кроки, здійснені на державному рівні у рамках реформування системи вищої юридичної освіти в Україні. Зокрема, розкрито значення та зміст затвердженого галузевого стандарту для спеціальності 081 «Право» галузі знань 08 «Право» для першого (бакалаврського) рівня вищої освіти та розробленого законопроекту «Про юридичну (правничу) освіту і загальний доступ до правничої професії».

У результаті аналізу правового регулювання професійної підготовки бакалаврів у галузі права в університетах Канади та України надано рекомендації для управлінців у вітчизняній освітній сфері щодо використання найкращих зразків досвіду Канади у контексті управління вищою юридичною освітою в нашій державі.

Ключові слова: професійна підготовка, бакалавр, право, правове регулювання, Канада, Україна.

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Problem statement. Nowadays Ukraine is witnessing a process of active reform in the sphere of future lawyers' professional training in accordance with the trends of the international and European educational space, modern educational standards and the fluctuating requirements of the labor market. The need for drastic changes in the system of legal education is due to the fact that "with the achievement of independence and the transition to a market

economy, the demand for lawyers grew exponentially, as did the offers of various educational institutions, which led to the devaluation of this profession and a decrease in the quality of specialists' professional training" [12, p. 9].

The study of the professional training of future lawyers in the framework of reviewing scientific literature in the field of pedagogy, regulatory and legal documentation regulating the field of higher education,

as well as the analysis of educational programs for training bachelors in law made it possible to identify contradictions between the request for receiving quality educational services in accordance with international education standards and imperfection of legal regulation of professional training of future legal specialists in Ukraine. In this context, we believe that one of the effective ways to promote the professional training of lawyers at the universities of Ukraine is to study and apply international experience, particularly that of Canada, in this area with the aim of improving the quality of legal education and bringing it closer to world and European standards. As Ohienko states, the purpose of comparative pedagogical research is to compare the education systems of different countries (or components of these systems) with the aim of identifying and analyzing commonalities and differences between educational phenomena and processes, substantiating patterns and trends in their development, providing an objective assessment of the possibility to use foreign experience in solving the education problems in one's own country [7].

Analysis of recent research and publications.

In order to compare legal regulation of the professional training of bachelors in the field of law in Canada and Ukraine, we have analyzed international documents, laws on higher education, occupational standards for training bachelors in law, regulatory and legal documentation of universities in Canada and Ukraine containing provisions on the conditions of entrants' admission and enrollment, organization of the educational process, undergraduates' assessment and certification, quality assurance of educational activities, as well as educational programs, curricula, descriptions of modules of educational disciplines. The specifics of modern higher education functioning in Canada and the problems of professional training of specialists in the university education system of the studied countries are highlighted in the works of such scientists as Wæver; Harris,&Tremblay; Hurevich, Kademiya,& Kozyar; Gregor,&Jasmine; Jones; Marshall; Sheffield. In the context of our research, the analysis of the scientific and pedagogical literature (Bilous; Mangora; Rybachuk; Sopilko; Sushchenko; Stetsyuk; Zadoyany,&Oksyom, etc.) featuring the state of legal training and ways of reforming it in Ukraine played a crucial role.

The purpose of the article is to perform a comparative pedagogical analysis of legal regulation of professional training of bachelors in the field of law at the universities of Canada and Ukraine and to provide recommendations on the use of Canadian experience in this aspect of professional training of future lawyers in the context of higher education in Ukraine.

Results. The study of the professional training of bachelors in the field of law in the context of a thorough study of regulatory and legal documentation made it

possible to discover that the professional training of future legal specialists in Canada and Ukraine is based on a number of international documents. In particular, "World Declaration on Higher Education in the Twenty-First Century: Vision and Implementation" provides for the internationalization of higher education, equal access to higher education, diversification of educational models, a student-centered approach to the organization of the educational process, the use of information and communication technologies, academic freedom of higher education institutions, lifelong learning, research work in cooperation with the public, ensuring quality control of higher education [6]. The next international document in the field of higher education – "Convention on the Recognition of Qualifications for Higher Education in the European Region" or "Lisbon Convention" of April 11, 1997, developed and adopted under the auspices of the Council of Europe and UNESCO, provides for equal access of all people to diversity education systems and facilitating access to educational resources of other states [2]. This document was ratified by the Verkhovna Rada of Ukraine on December 3, 1999, while Canada became a party to the Lisbon Convention on the Recognition of Qualifications in 1997. According to this convention, in 2013, all UNESCO member states adopted the Recommendation on the Use of Qualifications Frameworks on the Recognition of Foreign Qualifications, which promotes the development of qualification frameworks in each member country as well as the use of these frameworks in the process of qualification recognition [1].

Due to the fact that education in Canada is decentralized at all levels, this country does not have a national system of higher education and, accordingly, a single law on higher education. The development and implementation of laws and regulatory documents in the field of education belongs to the powers of the legislature of individual provinces and territories, which consider the peculiarities of functioning of the region and the specifics of the education system. Among the documents that regulate higher education in Canada at the state level, we can single out the Ministerial Statement on Quality Assurance in Education in Canada approved by the relevant Ministries and Departments of the provinces and territories as a reference point for making decisions on licensing new institutions and educational programs at the local level. This document defines the Canadian Degree Qualifications Framework in order to harmonize the description of each level to achieve common learning outcomes; Procedures and Standards for New Degree Program Quality Assessment, which describe the knowledge, skills and abilities that a graduate of a higher education institution must possess after obtaining a certain educational level to ensure clear standards of education and adequate

quality of education; Procedures and Standards for Assessing New Degree-Granting Institutions, which regulate the process of recognizing a new higher education institution [3]. Another state-level document is the National Competency Profile, which defines the knowledge, skills, and tasks that must be achieved to practice law in Canada [4]. The Pan-Canadian Framework of Qualifications is a document that determines the main objectives and learning outcomes for each qualification in the context of a specific education system, and the relationship between different qualifications, which allows the comparison of qualification systems of different countries, thereby providing mechanisms for credit transfer and qualification recognition. acquired in the education systems of other countries, contributing to the mobility of specialists between countries with different educational systems [5].

The main components of the legal framework of higher education of Ukraine are the Law of Ukraine "On Higher Education" (2014), the State National Program "Education" ("Ukraine of the 21st Century") (1993), the National Doctrine of Education Development (1996), the National Strategy of Education Development in Ukraine for 2012–2021 (2013), where there is a tendency to move away from centralized management of the higher education system, and instead the principles of democratization, autonomy, and personalization of the educational process are declared.

It is worth noting that the adoption of the Law of Ukraine "On Higher Education" (2014) demonstrated the approximation of the national higher education system to European and world standards, because higher education institutions received the right to expand academic, economic and financial autonomy, which provides ample opportunities for the realization of their own vision of organizing the educational process, independent development and approval of educational programs and curricula, planning and allocating the budget, thus, promoting competitiveness of domestic institutions of higher education in the international educational market [8].

An important step on the way to implement transparent mechanisms for ensuring internal and external quality control of higher legal education of Ukraine was the creation on September 1, 2015 of the National Agency for Quality Assurance of Higher Education (NAZYAVO), which is provided for in the Law of Ukraine "On Higher Education" (2014). However, only at the beginning of 2019, this structure officially started its activities, consisting in the performance of regulatory and control functions to ensure the quality of higher education, namely, accreditation of educational institutions and educational programs, analysis of the quality of educational activities, formation of a single database of specializations at each level of higher education,

development of the procedure for awarding scientific degrees by specialized academic councils of higher education institutions, accreditation of specialized academic councils, etc. [9].

The results of the analysis of the legal framework for the professional training of law specialists in Ukraine indicate that, in addition to the above-mentioned documents, the Resolution of the Cabinet of Ministers of Ukraine "On approval of the list of fields of knowledge and specialties according to which undergraduates are trained" dated April 29, 2015 and the National Framework of Qualifications (2011), which provides a structured description of educational and scientific qualification levels of education, are in force at the state level today.

The studies of undergraduates' professional training in the field of law at Canadian universities reveal the absence of a national standard for this field due to the decentralization of the Canadian higher education system. The functions of organization and management of higher legal education, determination of the content and educational levels of legal specialists' training are provided at the local level by the relevant departments of self-government bodies – the Ministries or Departments of Education of each province and territory. Canadian universities, having relative autonomy, independently develop educational programs, as well as determine methods of teaching, training, evaluation and forms of certification of students in the field of law. Monitoring the quality of providing educational services by law schools is mostly carried out by law societies in each province and territory through the development and control of compliance with state requirements for admission to the practice of law, where mandatory competencies for obtaining an educational level in general law are defined.

In recent years, Ukraine has made significant progress in the development of the legal framework for the professional training of specialists in the field of law, in particular by approving the occupational standard for the specialty 081 "Law" of the field of knowledge 08 "Law" for the first (bachelor's) level of higher education, which became the first stage to modernize the national system of higher legal education. This standard establishes the main requirements for the content and assessment-resultative components of the educational activity of the higher education institutions that provide professional training of bachelors in law, offering a list of the graduate's competencies and outlining the possibilities of their further employment. Thus, the educational programs of Ukrainian universities, training bachelors in law, are based on the provisions and norms of this occupational standard [10].

As part of the reform of the higher education system and the comprehensive renewal of the legislative framework in the field of legal education, the draft law

"On legal education and general access to the legal profession" No. 7147 of 09/28/2017 was developed. "The purpose of the draft law is the development of legal education aimed at training a lawyer in accordance with his fundamental role – to establish the rule of law through the protection of human rights and freedoms" [11]. The draft law "determines the principles (standard) of legal education, as well as establishes mechanisms for evaluating the quality of legal education and general access to the legal profession" [11]. The document provides a list of fundamental legal disciplines that should be included in the standards of legal education, and those whose educational programs require substantive and methodological improvement in order to ensure the lawyer's training in accordance with European standards. The draft law separates legal professions (judge, lawyer, prosecutor, notary) and professional activity in the field of law (public service or service in local self-government bodies, work in positions related to the provision of free legal aid, work in the positions of assistant judge, assistant attorney, assistant notary public, assistant prosecutor, research and teaching activities in law schools). According to the provisions of the draft law, professional training of lawyers can be carried out exclusively by law schools under the supervision of the Ministry of Education and Culture of Ukraine (classical universities, specialized universities), and private higher education institutions that have received a license from the Ministry of Education and Culture of Ukraine [11].

Conclusions. A comparative study of legal provision of professional training of bachelors in the field of law in Canada and Ukraine has demonstrated the significant differences in terms of state regulation of higher legal education, the autonomy of law schools and the availability of occupational standards for this specialty. In the context of the conducted research, we consider it appropriate to suggest the following recommendations for educational managers regarding the reform of higher legal education in Ukraine: to complete the discussion, make amendments and adopt a law based on the draft law "On legal education and general access to the legal profession" No. 7147 from 28.09.2017; to ensure compliance by higher education institutions with the approved Standard of Higher Education of Ukraine for specialty 081 "Law" of field of knowledge 08 "Law" for the first (bachelor's) level of higher education No. 1379 dated December 12, 2018; to develop and approve occupational standards and passports of professions in the field of law which will contribute to the formation of a comprehensive

vision of the content, purpose, tasks of lawyers' professional training considering the needs of the labor market and the expectations of employers in this field of professional activity, as well as a better understanding of future employment opportunities for graduates. Successful reform of legal education in Ukraine is impossible without state regulation, monitoring the quality of educational services and finding ways to implement innovative ideas to create a high-quality system of professional training of future lawyers who would be able to perform professional activities on the basis of establishing the rule of law in society and building a legal democratic state.

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