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GOVERNMENT CONTROL OF ANTROPOGENETIC ACTIVITIES OF UKRAINIAN ACADEMIC ORGANIZATIONS IN THE CONTEXT OF LICENSING OF TRAINING AND EDUCATION ACTIVITY

PAŃSTWOWA REGULACJA DZIAŁALNOŚCI GOSPODARCZEJ WYŻSZYCH UCZELNI UKRAINY NA PRZYKŁADZIE UDZIELANIA LICENCJI NA DZIAŁALNOŚĆ EDUKACYJNĄ

ГОСУДАРСТВЕННОЕ РЕГУЛИРОВАНИЕ ХОЗЯЙСТВЕННОЙ ДЕЯТЕЛЬНОСТИ ВЫСШИХ УЧЕБНЫХ ЗАВЕДЕНИЙ УКРАИНЫ НА ПРИМЕРЕ ЛИЦЕНЗИРОВАНИЯ ОБРАЗОВАТЕЛЬНОЙ ДЕЯТЕЛЬНОСТИ

Abstract

An article is deemed to liability of government control of higher education system, setup the concept of licensing of antropogenetic activities as one of the mechanisms of government regulation of antropogenetic activities, consider the backgrounds of licensing procedure of Training and Education activity of Ukrainian academic organizations.

Keywords: *government control, antropogenetic activities, academic organizations, pursuit of Training and Education activity, licensing of Training and Education activity, licence provisions.*

Streszczenie

W artykule została przedstawiona konieczność zastosowania regulacji państwowych w systemie szkolnictwa wyższego, zdefiniowane pojęcie licencjonowania działalności gospodarczej jako jednego z mechanizmów państwowej regulacji aktywności gospodarczej, przedstawione główne etapy procedury licencjonowania działań edukacyjnych instytucji szkolnictwa wyższego na Ukrainie.

Słowa kluczowe: *regulacje państwowe, działalność gospodarcza, wyższe placówki oświatowe, prowadzenie działalności edukacyjnej, licencjonowanie działalności edukacyjnej, warunki licencjonowania.*

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Аннотация

В статье рассмотрена необходимость государственного регулирования в системе высшего образования, определено понятие лицензирования видов хозяйственной деятельности, как одного из механизмов государственного регулирования хозяйственной деятельности, проанализированы основные этапы процедуры лицензирования образовательной деятельности высших учебных заведений Украины.

Ключевые слова: государственное регулирование, хозяйственная деятельность, высшие учебные заведения, осуществление образовательной деятельности, лицензирование образовательной деятельности, лицензионные условия.

Introduction

The state is one of the subjects of macroeconomics, the main function of which is the organization of the public goods production. In this capacity, it provides for regulation of the economy, determines the conditions and rules for conducting economic activities, and establishes certain requirements and restrictions on the activities of business entities, including their responsibility for offenses in the sphere of management.

The development of any society is impossible without the constant active participation of higher education institutions by preparing competitive human capital. The state policy in the sphere of higher education is based on the principles of promoting sustainable development of the society, creating conditions for lifelong education and international integration of the higher education system of Ukraine in the European Higher Education Area, subject to the preservation and development of the achievements and progressive traditions of the national higher school, the continuity of the process of obtaining higher education, etc.

The legislation of Ukraine on higher education is based on the Constitution of Ukraine and consists of the laws of Ukraine: “On Education”, “On Higher Education”, “On Scientific and

Scientific and Technical Activities” and other normative legal acts.

The formation and implementation of the state policy in the sphere of higher education, in turn, is ensured through the harmonious interaction of the national systems of education, science, business and the state, the preservation and development of higher education and the quality of higher education, the expansion of opportunities for higher education and education throughout life, development of autonomy of higher educational institutions and academic freedom of participants in the educational process [1].

Main part

Today, in the conditions of fierce competition among higher educational institutions of major importance, the issue of quality assurance of higher education has acquired. To provide high-quality services in higher education, it is necessary to have sufficient material, technical, information and scientific potential. While the presence of a large number of low-capacity educational and scientific potential of higher educational institutions is a factor that negatively influences the development of the quality of higher education.

One of the means of state regulation of the economic activities implementation is licensing, aimed at

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ensuring the implementation of a unified state policy in the field of licensing, protecting the economic and social interests of the state, society and individual consumers [2]. According to the legislation, the educational activity of educational institutions is one of the types of economic activity that is subject to licensing.

That is, one of the means of regulating the impact on the activities of higher education institutions is the licensing procedure, which is a premise for the commencement of economic activity, providing for the provision of educational services by educational institutions, including higher educational institutions. The Law of Ukraine "On Higher Education" defines the definition of licensing as "a procedure for recognizing the ability of a legal entity to conduct educational activities in a certain specialty at a certain level of higher education in accordance with the standards of educational activity" [1, subparagraph 15, paragraph 1, art.1] The Law of Ukraine "On Education" determines that licensing of educational activities is one of the tools, procedures and measures for both ensuring and improving the quality of education of the external guarantee system formation-operation [3, paragraph 1, article 43].

The legislation of Ukraine established that the body for licensing educational activities is the central executive authority in the field of education, that is, the Ministry of Education and Science of Ukraine [4].

The processes of reforming the system of national higher education and the adoption on March 2, 2015 of the Law of Ukraine "On licensing of economic activities" No.222 made significant changes to the licensing system for the educational activities of higher education institutions. So, if previously a license for educational activities was provided for a

period of 5 to 12 years, but not less than for a full cycle of training, now, according to point 6 of article 21 of the Law of Ukraine "On licensing of economic activities" licenses that previously had limited the validity period and were received by educational institutions prior to the enactment of the Law of Ukraine are unlimited.

Developed by the Ministry of Education and Science of Ukraine and approved by Decree of the Cabinet of Ministers of Ukraine No.1187 of December 30, 2015 "On Approval of Licensing Conditions for Educational Activities of Educational Institutions", the document became the only normative legal document, the provisions of which establish an exhaustive list of personnel, organizational, technological (material and technical, educational and methodological, information support) requirements that are mandatory for the higher educational institution and an exhaustive list, contents and forms of documents that are attached to the application for a license.

This document introduced a new terminology to expand and contraction the implementation of educational activities and set the procedure for the activities of higher education institutions in each case. At the same time it was established that "the beginning of educational activities in the sphere of higher education by an educational institution in a new specialty, at a different level of higher education and an increase in the licensed volume, except for cases provided for by the Law of Ukraine "On Higher Education", is to expand the implementation of educational activities in higher education and is subject to licensing in accordance with established procedure" [5, paragraph 6].

If the expansion of the educational activities in higher education is carried out by a separate structural unit of the higher educational institution, such activity is also

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subject to licensing in accordance with the established procedure.

The licensing conditions for the educational activities of educational institutions (hereinafter referred to as the "License Terms") approved by the above-mentioned Resolution of the Cabinet of Ministers of Ukraine provide for a significant reduction in the types of educational activities in higher education that are subject to licensing. This is, in particular, the activities of higher education institutions and scientific institutions, which is carried out with the aim of preparing candidates for higher education at certain levels of higher education in certain specialties (including the list of specialties approved by the Cabinet of Ministers of Ukraine) for programs of foreign educational institutions (except for educational activities carried out by accredited programs of higher education institutions of the Member States of the European Union, similar accredited specialties the appropriate educational institution); higher spiritual schools on the specialty "Theology"; educational institutions of foreign states or their structural subdivisions (branches) formed and functioning on the territory of Ukraine, regardless of the type of such activity [5, subparagraph 4, paragraph 2].

According to the requirements for the implementation of educational activities in higher education, the licensing authority, which is the Ministry of Education and Science of Ukraine, is applying for a license for educational activities, as well as the following documents:

1) copies of constituent documents of a higher educational institution (apart from expanding the production of educational activities in the event of an increase in the licensed volume);

2) copies of decisions on the creation of separate structural divisions and regulations on them (if the educational institution has structural units that will carry out educational activities) (except for expanding the production of educational activities in the event of an increase in the licensed volume);

3) copies of documents certifying the ownership, operational management or use of fixed assets for the implementation of the educational process for the period necessary to complete the full cycle of educational activities;

4) copies of documents on the compliance of premises and the material and technical base with sanitary norms, fire safety requirements, and labor safety standards (for training specialties with increased danger);

5) copies of educational (educational-professional or educational-scientific) program (except for the expansion of the implementation of educational activities in the event of an increase in the licensed volume), the curriculum for which educational activities will be carried out, and an explanatory note to the curriculum;

6) information on quantitative and qualitative indicators of personnel and logistical support of educational activities in higher education;

7) information on educational, methodological and information support for educational activities in the field of higher education (apart from expanding the implementation of educational activities in the event of an increase in the licensed volume);

8) summary statements on compliance with the requirements of the License Terms;

9) copies of documents certifying the level of education and qualifications of the head of the higher educational institution and the head of the project team

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(documents on higher education, academic degree, academic title) (except for expanding the implementation of educational activities in case of increasing the licensed volume);

10) a list of documents submitted for obtaining a license (extension of the implementation of educational activities), in duplicate [5, paragraph 10].

If a higher educational institution plans to carry out activities under the programs of foreign educational institutions, the following documents are additionally submitted:

1) a copy of the document on the registration of an educational institution - a foreign legal entity in the state of location and its translation into Ukrainian, certified by a notary;

2) the permission of an educational institution - a foreign legal entity for the right to use its educational programs and the issuance of a higher education document based on the learning outcomes or a copy of the relevant agreement;

3) a document certifying the accreditation (recognition) of educational programs that provide for the implementation of educational activities (if this is provided for by the legislation of the state concerned), and its translation into Ukrainian, notarized;

4) educational (educational-professional or educational-scientific) program and curriculum in the Ukrainian language, according to which educational activities will be carried out [5, paragraph 11].

If this educational institution of a foreign country, whose structural unit (branch) is formed and operates on the territory of Ukraine, additionally the following documents are submitted:

1) copies of documents certifying the legal basis for the establishment and functioning in Ukraine of an educational institution of a foreign state or its

structural subdivision (international agreement, permission of the Ministry of Education and Science of Ukraine, permission (consent) of the authorized state body of the location of the educational institution for the establishment and operation of such an institution or its structural subdivision in the territory of Ukraine, if this is provided for by the legislation of the respective state);

2) a document certifying the accreditation (recognition) of educational programs that provide for the implementation of educational activities (if this is provided for by the legislation of the state concerned), and its translation into Ukrainian, notarized;

3) copies of an educational (educational-professional or educational-scientific) program and a curriculum in the Ukrainian language coordinated with the Ministry of Education and Science of Ukraine, on which educational activities will be carried out [5, paragraph 12].

It is worth noting that at the beginning of educational activity in a particular specialty or higher education level, a higher educational institution must meet personnel, technological requirements for material, technical, educational and methodological and information support in terms of the start of educational activity, and when passing the procedure for increasing the licensed volume or accreditation - as part of the beginning and the implementation of educational activities.

The Ministry of Education and Science of Ukraine accepts the application for a license and confirms the documents for the inventory, which is made in two copies, where the authorized official makes a note on the date of acceptance of documents, verified by a signature indicating the name, initials and position. One copy of the inventory is issued to the

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educational institution, and the second one keeps in the Ministry.

The Ministry of Education and Science of Ukraine within three working days from the date of the application receipt for the license establishes the absence of reasons for leaving the application without consideration and, if any, takes the appropriate decision, informing the higher educational institution of this within three days, sending a copy of such decision. The reasons for leaving the application without consideration are clearly stated in paragraph 2 of Article 12 of the Law of Ukraine "On Licensing of Types of Economic Activities".

The Ministry of Education and Science of Ukraine, after establishing the absence of reasons for leaving the application without consideration, examines it and supporting documents, analyzes and verifies them for compliance with the License terms by obtaining information from government paper and electronic information resources. In the event that an absence of reasons for refusing to issue a license is established during the examination of the application, a decision is taken to issue a license. If it is established that there are reasons for refusing to issue a license, according to paragraph 3 of Article 13 of the Law of Ukraine "On Licensing of Economic Activities", an informed decision is made to refuse to issue a license, a copy of which is sent to a higher educational institution.

For the purpose of objective consideration of issues related to the licensing of educational activities within the Ministry of Education and Science of Ukraine under the Ministry, a Licensing Commission has been set up, which preliminarily examines issues and provides relevant recommendations and proposals on granting licenses to the leadership of

the Ministry, expanding or contraction the implementation of educational activities, refusal to issue licenses. The decisions of the Licensing Commission are approved by an order of the Ministry of Education and Science of Ukraine and posted on its official website.

Legislatively stipulated that the general term for making a decision on issuing a license cannot exceed ten working days from the day the Ministry of Education and Science of Ukraine receives an application for a license [2, paragraph 8, article 13].

The higher educational institution receives the right to implement educational activities from the day of publication of the decision taken by the Ministry of Education and Science of Ukraine to issue a license on its official website [6].

The adoption of the Law of Ukraine "On Higher Education" made adjustments to the concept of a licensed volume. Previously, if higher education institutions had a clearly fixed licensed volume of a full-time, part-time or evening form of education in each specialty and educational-qualification level in the license, today the school receives a total licensed amount within the specialty at each level of higher education and has the right within the framework of autonomy and self-government, independently determine the forms of education and the forms of organization of the educational process [1, subparagraph 2, paragraph 2, article 32]. In the future, the need to increase the licensed volume requires a licensing procedure determined by the License Terms.

In case if a higher education institution has decided to restrict the implementation of educational activities, including the termination of the implementation of part of the educational activity for a particular specialty, a certain level of higher education, or in a certain

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place, the implementation of educational activities, as well as a reduction in the licensed volume, the institution submits to the Ministry of Education and Science of Ukraine an application that is reviewed by the Licensing Commission. The decision is approved by the order of the Ministry of Education and Science of Ukraine and is posted on the official website.

The legislation of Ukraine provides for the procedure for annulling a license. The corresponding decision is made by the licensing body, that is, the Ministry of Education and Science of Ukraine. The reasons for such a decision are:

1) the statement by a higher educational institution on the cancellation of its own license;

2) the entry into force of the decision of the Ministry of Education and Science of Ukraine to annul the license;

3) the presence in the Uniform State Register of legal entities and individuals - entrepreneurs of information on state registration of the termination of the activity of the university, except for the case of reorganization;

4) the act on non-fulfillment of the order to eliminate violations of the License Conditions;

5) the act on the repeated violation by the educational institution of the License Conditions;

6) the act on the identification of inaccurate data in documents submitted with an application for a license;

7) the act on the refusal of universities to carry out an audit by the Ministry of Education and Science of Ukraine;

8) the failure to pay for issuing a license within the time frame established by the Law [2, paragraph 2, article 16].

In case of cancellation of a license on the reasons provided for in clauses 4-8 of the above, a higher educational institution may apply for a license to carry

out educational activities not earlier than one year from the date of entry into force of the decision to annul the previous license. [2, paragraph 10, article 16].

The higher educational institution to which the license has been revoked can file an appeal to the Licensing Expert-Appeal Board, which is created by the State Regulatory Service of Ukraine, which is a specially authorized body on licensing issues within the time limits established by the Law [7]. The decision to revoke the license can be appealed in the Court [2, paragraph 11, article 16].

Conclusions

So, the licensing of educational activities of higher education institutions is a legally fixed procedure for recognizing the ability of an educational institution to carry out educational activities in accordance with higher education standards, which is of a regulatory nature through which the state implements licensing, monitoring, accounting and information functions. Today, the state has unified legislation on the licensing of types of economic activities, including educational activities of higher education institutions. The developed and approved licensing conditions for the implementation of educational activities have become the main normative act that regulates the list of documents required to obtain a license and requirements for personnel, material and technical, educational, methodological and information support for starting and conducting educational activities in the field of higher education. The ongoing reforms in the licensing procedure have significantly shortened the terms of obtaining a license, and also optimized the number of participants participating in the licensing procedure.

The main stages of the licensing procedure for educational activities in higher education are:

1) submission by higher educational institutions of the Ministry of Education and Science of Ukraine, as a licensing body, applications for a license for educational activities (expansion of educational activities) in higher education;

2) consideration in the Ministry of Education and Science of Ukraine of an application for obtaining a license and documents, as well as establishing whether there are reasons for leaving the application without consideration;

3) after establishing the absence of reasons for leaving the application without consideration, an analysis of the supporting documents for compliance with the licensing conditions for the implementation of educational activities by educational institutions in higher education is carried out;

4) on the basis of analysis and verification of documents by the Licensing

Commission of the Ministry of Education and Science of Ukraine, a decision is made to obtain or refuse to issue a license, which is approved by an order of the Ministry of Education and Science of Ukraine;

5) the decision to obtain a license or refuse to issue a license is published on the official website of the Ministry of Education and Science of Ukraine.

The general term for making a decision to issue a license does not exceed 10 working days from the day the Ministry of Education and Science of Ukraine receives an application for a license.

Despite the development and approval of major regulatory acts, the reform of the licensing system for economic activities and, in particular, the licensing of educational activities in Ukraine continues. The next stage, according to the author, should be the introduction of an electronic filing of an application and the necessary documents for obtaining a license to carry out educational activities.

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