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Legal regulation of the creation and activities of international universities in the founding countries of international universities in the Republic of Kazakhstan

Abstract. *Using a theoretical analysis, the article presents examples of international universities of the countries that founded international universities in Kazakhstan. An analysis of the legal regulation of the establishment of international universities in our country and their activities with universities from countries in cooperation with which international universities have been established in our country is particularly in demand - the Republic of Turkey, the Federal Republic of Germany, the United Kingdom of Great Britain and Northern Ireland, and the French Republic. It examines the trends in the development of the world educational space, which are responsible for structural and institutional changes in higher education through international cooperation and a dialogue of cultures. The article also identifies some characteristics of higher education in countries such as Great Britain, Russia, France, Germany, and Turkey. The review of intergovernmental agreements examined the obligations and rights of the parties to agreements on the dynamic functioning and funding of these international universities. As a result of an analysis of the legal basis for the establishment of international universities, as well as the laws governing higher education in the above states, the authors draw conclusions concerning the results of international universities in the Republic of Kazakhstan.*

Keywords: *the Republic of Kazakhstan, international university, foreign partners, private university, legal regulation, international agreements, higher education.*

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Introduction

Currently, a process of harmonization is being conducted between the provisions of domestic norms and the requirements of relevant international standards.

In the developing world, scientific and cultural exchanges, academic mobility, and the establishment of international universities on the territory of foreign states, as well as other factors

contributing to the growth of international cooperation in education, dictate the necessity of international legal regulation of educational relations.

According to foreign sources, «international university» refers to three types of universities:

1) an internationally focused university with a variety of international partnerships, international students and faculty, and many collaborative activities;

2) universities with subsidiary offices, such as branches, research centers, and management or project offices;

3) institutions that were jointly formed or developed by two or more institutions from different countries [1].

Furthermore, we are interested in international universities that are founded or jointly developed between two or more countries.

The Republic of Kazakhstan has achieved a great deal in the field of international educational cooperation, as can be proved by the presence of international universities on the territory of Kazakhstan, which each year broaden the range of educational programs available to students, as well as increasing the number of students not only from Kazakhstan, but also from abroad. Among such institutions are Suleyman Demirel University, also known as SDU, International Kazakh-Turkish University named after Kozha-Akhmet Yassawi, Egyptian University of Islamic Culture «Nur-Mubarak», Kazakh-German University, Kazakh-American University, Kazakh-Russian Medical University, Kazakhstan-Sorbonne and Kazakh-Russian University, Kazakh-Russian International University, International University of Information Technologies [2].

According to paragraph 4 of Article 65 of the Law of the Republic of Kazakhstan «On Education» dated July 27, 2007 [3], the above universities were created and operate under international agreements and by the decision of the Government of the Republic of Kazakhstan.

Additionally, based on these universities, there are organized international events with the participation of prominent figures from foreign countries. They discuss a possibility of mutually beneficial collaboration [4].

The Law of the Republic of Kazakhstan «On Education» dated July 27, 2007 clearly states that the Republic of Kazakhstan participates in international educational cooperation on the basis of its legislation and international treaties [3].

On the other hand, the dynamism of the development of this sector in our country is encouraging interest in studying the experience and legal regulation of the activities

of international universities of the founding countries of international universities in Kazakhstan.

Research methods

It is well known that, along with the object and subject, other elements of legal research are also cognitive methods. This article focuses on international legal relations arising from international law. The research area is international universities in Kazakhstan. When a gap was identified in the study of international legal regulation of activities and the establishment of international universities in our country. Scientific research has become more and more concerned with its methods. We used several methods. The used legal and regulatory acts, which are acts known as «soft law,» were interpreted using logical methods. This method was crucial to our interpretation. In this article we used the system method to explain the meaning of the norm to readers through the analysis of the links between legal and normative acts, which are often found in multiple acts (or even blanket, reference norms of law). The teleological method has been used during the study. Thus, it was possible to establish the specific goals of normative acts used in this article. We applied the methodology of comparative legal research to identify the general and the special. Comparative legal research focuses on elements of legal regulation that are enshrined in legal and normative acts of international and domestic law.

Discussion

In recent years, international cooperation has gradually led to structural and institutional changes in higher education, which brings educational systems as close as possible and eventually enables them to form a single global educational space.

It is possible to define international strategic partners in education. It is possible as result of educational institutions located in two or more countries have signed long-term cooperation agreements providing for the implementation

of joint scientific and educational projects based upon a partial integration of human, information, material, and technical resources for solving strategic problems [5].

As a result of globalization, international cooperation has expanded every year more and more. For quite some time, international cooperation has demonstrated the feasibility of combining the efforts of foreign universities in the creation and implementation of educational projects with a unique content. Fundamentally, the idea of creating a new educational project, such as an international university, with the participation of foreign partners first appears when a country begins to receive large numbers of foreigners [6]. One example of such a «discovery» is the establishment of the Kazakh-British Technical University.

In order to implement agreements and arrangements made during the official visit of the ex- president of the Republic of Kazakhstan, N.A. Nazarbayev to the United Kingdom of Great Britain and Northern Ireland in November 2000, the Government of the Republic of Kazakhstan established the Kazakh-British Technical University [7]. KBTU was founded by the Government of the Republic of Kazakhstan, represented by the Ministry of Education and Science, as well as the British Embassy in Kazakhstan and the British Council on the British side.

Kazakhstan-British University was established in accordance with the Memorandum of Understanding between the Ministry of Education and Science of the Republic of Kazakhstan and the British Council dated March 26, 2001 [7] and the Decree of the President of the Republic of Kazakhstan No. 1027 dated August 3, 2001.

By virtue of the above Memorandum, the Ministry of Education and Science of the Republic of Kazakhstan and the British Council, an organization providing educational and related services to the Republic of Kazakhstan are expanding their international cooperation in the field of higher education [8].

Accordingly, the university's principal area of activity is the implementation of educational

programs of higher professional and postgraduate professional education in technical specialties.

Further, in accordance with the provisions of Decree No. 1027 of the Government of the Republic of Kazakhstan dated August 3, 2001, responsibility for establishing the capital authorized of a joint stock company - the Kazakh-British Technical University, hereby transfers to the Ministry of Finance of the Republic of Kazakhstan the right of ownership and use of the state block of shares of the company to impose on the Committee for State Property and Privatization of the Ministry of Finance of the Republic of Kazakhstan [7].

A joint Kazakh-Egyptian Islamic higher education institution, the Egyptian University of Islamic Culture Nur-Mubarak, was established during the official visit of the First President of the Republic of Kazakhstan Nursultan Nazarbayev to the Arab Republic of Egypt in 1993 [9].

It was agreed between the Kazakh delegation and the Egyptian government that the university will be managed by the Spiritual Administration of Muslims of Kazakhstan. In July 2003, the Parliament of the Republic of Kazakhstan ratified this agreement, which was then approved by presidential decree No. 460-11.

According to the agreement between the Government of the Republic of Kazakhstan and the Government of the Arab Republic of Egypt concerning the Egyptian University of Islamic Culture «Nur-Mubarak», the university is a non-state educational institution with the status of a legal entity and is governed by the provisions of this agreement, the charter of the university, and the laws of the Republic of Kazakhstan.

According to Article 3 of the Agreement, the university's activities will be funded by its founders, whose names will be determined as follows:

Paying the salaries of the Egyptian teaching staff and other personnel appointed by it is the responsibility of the Egyptian side.

The Kazakhstani side is responsible for paying the wages of its employees.

Kazakhstan also covers the costs associated with operating utilities (electricity, heat, water supply, sewage) and the maintenance of the buildings.

It was agreed by all parties that the university's property complex and all material and intellectual property belonged to the university and could not be used for any purpose contrary to its charter [10].

Founded in 1991 on the initiative of the Head of State N.A. Nazarbayev and in compliance with the Intergovernmental Agreement between Kazakhstan and Turkey aimed at training highly qualified specialists from Turkic-speaking countries, is located in Turkestan, the spiritual center of the Turkic world, and is the first institution of higher education to be accredited internationally.

On May 1, 1992, the University of Kazakstan was granted the status of an international university during the official meeting between the President of Kazakhstan Nursultan Abishevich Nazarbayev and the Prime Minister of Turkey Suleiman Demirel [11].

In January 2012, the President of the Republic of Kazakhstan signed a Law «On the ratification of an agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Turkey on the operational conditions of the International Kazakh-Turkish University named after Khoja Ahmed Yassawi».

International Kazakh-Turkish University named after Khoja Ahmed Yassawi is an international educational organization of the states of the Parties having the status of an independent legal entity deriving its legal status from the national legislation of the host state and the Agreement.

In addition, the Agreement specifies that state authorities of the Republics of Kazakhstan and Turkey have the right, within their jurisdictions, to conduct scheduled inspections of the University no more than once a year, and unscheduled inspections - in accordance with the procedures established by the national laws of the states of these two countries [12].

In order to be able to conduct the academic activities of the Kazakh-German University in Almaty, the Government of Kazakhstan and the Government of the Federal Republic of Germany have signed an agreement which was ratified by the Kazakh-German University on July 15, 2010 [13].

According to article 4 of the above agreement, the Kazakh-German University is an international higher education institution. It is the goal of the Parties to develop appropriate framework conditions enabling the University to interact strategically and sustainably with Kazakh and German public and private institutions and organizations implementing educational and innovation projects.

Furthermore, an important characteristic of the Agreement between the Government of the Republic of Kazakhstan and the Government of the Federal Republic of Germany on cooperation in the development of the Kazakh-German University is that it specifies the educational program that the university offers to its students [14].

The comparison of intergovernmental agreements with Britain, Egypt, Germany, and Turkey shows that these agreements primarily govern the rights and obligations of the parties involved, but also approve the status of universities [10], including their belonging to the category of subjects with civil rights and obligations [12]. A discussion of financing [14], remuneration of foreign employees, and recognition of university diplomas is also included [7].

In contrast to Kazakhstan, the establishment of international universities took place in stages in the CIS countries.

The creation of the Russian-French University in Nizhny Novgorod is an example of an international university in the Russian Federation. The idea of creating an international university is not just supported by the cultural delegation of the French Embassy, but also by the French Ambassador to the Russian Federation P. Morel, the Ministry of Education and the Ministry of Foreign Affairs of the Russian Federation. A Protocol of Intent between this university and the organization provides for the creation and implementation of a joint educational program [6]. Its primary objective was to train Russian specialists with higher education in the fields of law and economics, who possess professional knowledge of two European languages, among which French is the main and compulsory language.

The Russian-French University does not offer anything unique in its curriculum; students are provided with a second higher education in accordance with current Russian legislation. It has been possible to converge on a common goal through the pooling of efforts and coordination of actions in this direction of two Russian and two French universities, thus adding fundamentally new components to their content and reaching such a high level of quality in training specialists that makes this program to a large extent elite and, in many respects, unique not only among regional, but also among Russian universities [6].

An additional example is the Russian-Italian University, which implements a system of free choice of educational services within an open learning environment.

In the interstate agreement «Action Plan in relations between the Russian Federation and the Italian Republic», signed on February 10, 1998 by the President of the Russian Federation and the Prime Minister of the Italian Republic, the Russian-Italian University is recognized as one of the priorities of cooperation between the two countries. It is important to note that RIU receives significant financial support from the government bodies of both Russia and Italy (the ministries of education and foreign affairs of both countries), as well as the administrations of the Nizhny Novgorod region and the province of Calabria [15].

As a result, it is possible to observe that international universities in the Russian Federation, as well as in the Republic of Kazakhstan, function according to bilateral agreements between government officials.

It is different with international universities in Europe, which receive the status of private universities. The majority of private colleges and universities are not government-run, although they may receive government grants, student loans, and tax breaks. Government regulation may apply to some private universities, depending on their location. Private universities are not subject to government regulation. Private universities are often non-profit institutions [16].

Throughout the Federal Republic of Germany, the legal basis for the education management

system is derived from the federal, state and municipal legislative acts and regulations, ranging from the Basic Law, to state constitutions, to directives and private departmental instructions of the heads of educational institutions.

Bremen Jacobs University is an internationally renowned private research university located in Fegesack, Bremen, Germany. A new university was established in Bremen in 1999 after the University of Bremen, Rice University in Houston, Texas, and the City of Bremen each provided financial support. The Jacobs University of Bremen is a private university, which means that its mission, strategic direction and resources are independent of government control. As trustees of the university's resources and mission, Jacobs University Bremen is managed by an independent board of governors. Jacobs University Bremen is governed by a Governing Council that includes representatives from international business, politics and academia. In addition to offering training in English, the university is also involved in many national and international research projects. In addition to the German Research Foundation, the European Union Research and Innovation Framework Program, and world-leading companies support Jacobs University research projects [17].

It is worth noting that, in the United Kingdom, the legal regulation of education is comprised of hundreds of scattered laws and delegated legislation, some of which are already outdated or have been revoked. Similarly, consolidation and codification efforts are proceeding slowly at the state level [18].

The government partially funds and regulates UK private universities: the government controls tuition fees, student funding, student loans, and commissions, as well as research assessment and teaching evaluation. It should be noted, however, that unlike in continental Europe, the British government does not own university assets, and university staff are not civil servants: government regulation arises as a condition of receiving funds from organizations such as the Office of Student Affairs (OfS) [16].

There is an international university in the UK known as the University of Richmond (American

International University in London). The university is a non-profit educational institution, as are other international universities in Europe. A distinctive feature of the university is that it is able to award both British and American degrees. In order to exercise such authority, the university received a license from the Washington, DC Board of Education to award a bachelor's degree in the United States and formal accreditation from the Middle States Association of Schools and Colleges (now known as the Middle States Higher Education Commission). Consequently, it became an independent, fully accredited liberal arts university. In the aftermath of the closure of the Washington, DC Board of Education, Richmond was licensed to award degrees in Delaware, which is still the jurisdiction used for awarding degrees in the United States. During the period 1996-2018, Richmond awarded British degrees that were approved by the Open University of Great Britain [19].

It is necessary to note that France does not have an accreditation agency for educational institutions and programs. Accreditation does not mean that all state universities are authorized to carry out educational activities and issue state diplomas. Approximately once a year, the Ministry of Education confirms this right through the publication of an official list of training types in all recognized specialties listing universities and private universities in which the Ministry provides training in this manner for the following academic year.

There is a wide variety of legal acts regulating higher education, including the Law on Research Programs 2006, the Law on the Rights and Duties of the University 2007, as well as the Law on Higher Education and Research (Law of Fiorazo, Minister of Higher Education of France) [20].

The Schiller International University in France is an example of an international university. The university was given the status of private higher education institution (*établissement d'enseignement supérieur privé*) following accreditation. As a result of the University's accreditation with the American Academic Council, it offers an internationally recognized academic degree valid in both the US and the EU.

In addition, the university operates in accordance with a constitutive document, as well as the above legislative acts of France [21].

In the Republic of Turkey, higher education institutions were established following the model of universities in central Europe, particularly Germany. For instance, this applies to Istanbul and Ankara; the Bosphorus, Srenevostochny Technical University. Ataturk draws inspiration from the American university system. State funds are used to support higher education institutions. Additionally, private foundations and public organizations provide additional subsidies to individual universities. Middle East University and Hacettepe University, for example, in addition to receiving subsidies from the Turkish government, receive funding from the UN, WHO, other countries, and private foundations [22].

Even though universities could be funded by international organizations, the establishment of an international university is quite a challenging endeavor. There is a lack of a stable regulatory legal framework in the establishment of international universities within the local public universities and this restricts the possibility for the development of bilateral universities. Furthermore, public universities (such as Koç University) have a strong focus on international education, which can be seen in the close collaboration with many leading educational organizations abroad, including the University of California and Cornell University.

Results

A sophisticated and multifaceted system of international education has been developed due to the innovative approach of international universities to the organization of innovative forms of international education. In addition to implementing the Bologna process principles, this system complements and develops them with its own original organization and methodology. As a result, universities approved under bilateral agreements in the post-Soviet countries have shown the best dynamics in personnel training, as the creative implementation of the principle of «double degrees» has allowed students to obtain double higher education (for instance,

Russian and Italian) and many of these graduates have continued their professional activities in economic, social and interstate projects of bilateral cooperation.

It is important to note that the small amount of international universities (acting on the basis of an agreement between states) in Europe is due to the fact that in many European countries there are internationally acclaimed higher education institutions (such as Oxford, Cambridge, Sorbonne, etc.) that are on a par with many of the European educational systems. Second, international universities in general are perceived as private institutions, which is not a quality that is particularly appreciated by the local community. In addition, local universities provide a sufficient number of educational programs and are the most popular, and cannot be compared to international institutions.

International universities possess an inherent advantage in that they have the potential for

further collaboration with countries of the near and far abroad, which makes a huge contribution to the development of Kazakhstan as an educational, research and economic partner [13].

Conclusion

As a conclusion, we would like to emphasize that the rather significant results of international universities have been attributable to the consistent implementation of the original strategic goals of creating international universities, including training a new generation of specialists capable of providing educational, cultural, scientific, technical, economic, and trade cooperation between two or more countries. As a result of the programs offered by universities, global education is successfully developed at the highest level of international standards and, thus, actively contributes to the strengthening of a country's international standing [11].

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Қазақстан Республикасындағы халықаралық университеттердің негізін қалаушы елдерде халықаралық университеттердің құрылуы мен қызметін құқықтық реттеу

Аңдатпа. Мақалада теориялық талдауды пайдалана отырып, Қазақстанда халықаралық университеттердің негізін қалаған елдердің халықаралық университеттерінің мысалдары келтірілген. Елімізде халықаралық университеттер құрудың құқықтық реттелуін талдау және олардың біздің елімізде халықаралық университеттер ынтымақтастығы арқылы құрылған елдердің университеттерімен қызметі ерекше сұранысқа ие - Түркия Республикасы, Германия Федеративтік Республикасы, Ұлыбритания және Солтүстік Ирландия Біріккен Корольдігі және Француз Республикасы. Ол халықаралық ынтымақтастық пен мәдениеттер диалогы арқылы жоғары білім берудегі құрылымдық және институционалдық өзгерістерге жауап беретін әлемдік білім беру кеңістігінің даму тенденцияларын зерттейді. Университеттер ұсынатын бағдарламалар әлемдік білім беруді халықаралық стандарттардың жоғары деңгейінде дамытудың

қалыптасқан дәстүрінің табысты жалғасы болып табылады, сонымен қатар кез келген елдің халықаралық беделін нығайтуға ықпал етеді. Мақалада сондай-ақ Ұлыбритания, Ресей, Франция, Германия және Түркия сияқты елдердегі жоғары білімнің кейбір ерекшеліктері анықталған. Үкіметаралық келісімдерді қарау барысында аталған халықаралық университеттердің серпінді жұмыс істеуі және қаржыландыруы туралы келісімдер тараптарының міндеттері мен құқықтары қарастырылды. Халықаралық университеттерді құрудың құқықтық негіздерін, сондай-ақ жоғарыда аталған мемлекеттердегі жоғары білімді реттейтін заңдарды талдау нәтижесінде авторлар Қазақстан Республикасындағы халықаралық университеттердің жұмысының нәтижелеріне қатысты қорытынды жасайды.

Түйін сөздер: Қазақстан Республикасы, халықаралық университет, шетелдік серіктестер, жеке университет, құқықтық реттеу, халықаралық келісімдер, жоғары білім.

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Правовое регулирование создания и деятельности международных университетов в странах-учредителях международных университетов в Республике Казахстан

Аннотация. С помощью теоретического анализа в статье даны примеры международных университетов стран, основавших международные университеты в Казахстане. Особенно востребован анализ правового регулирования создания международных университетов в нашей стране и их деятельности с вузами из стран, в сотрудничестве с которыми в нашей стране созданы международные университеты - Турецкая Республика, ФРГ, Соединенное Королевство Великобритании и Северной Ирландии и Французская Республика. В ней рассматриваются тенденции развития мирового образовательного пространства, ответственные за структурные и институциональные изменения в высшей школе через международное сотрудничество и диалог культур. Программы, предлагаемые университетами, являются успешным продолжением устоявшейся традиции развития глобального образования на самом высоком уровне мировых стандартов, способствуя тем самым укреплению международного престижа любой нации. Также в статье определены некоторые характеристики высшего образования в таких странах, как Великобритания, Россия, Франция, Германия, Турция. В обзоре межправительственных соглашений были рассмотрены обязанности и права сторон соглашений о динамичном функционировании и финансировании этих международных университетов. В результате анализа правовой основы создания международных университетов, а также законов, регулирующих высшее образование в вышеуказанных государствах, авторы делают выводы относительно результатов деятельности международных университетов в Республике Казахстан.

Ключевые слова: Республика Казахстан, международный университет, иностранные партнеры, частный университет, правовое регулирование, международные соглашения, высшее образование.

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