

Problems of internationalization of legal education

Problemas de internacionalización de la educación jurídica

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Contents

1. Introduction
 2. Analysis and discussion
 3. Results
 4. Conclusion
- Bibliographic references

ABSTRACT:

The purpose of the research is to reveal the main problems of the internationalization of legal education and determine solutions. The authors use comparative, legal and historical legal methods. The article covers the problems of the implementation of the Bologna process agreements in higher education and mutual recognition of Diplomas given. The authors prove that, with some exceptions, it is impossible to train a universal lawyer who would have good job prospects in several countries. The solution is seen in the development of internationally oriented postgraduate programs, including those with distant and network forms of education.

Keywords: Higher education, recognition of diplomas, internationalization, legal policy

RESUMEN:

El propósito de la investigación es revelar los principales problemas de la internacionalización de la educación jurídica y determinar las soluciones. Los autores utilizan métodos legales comparativos, legales e históricos. El artículo aborda los problemas de la implementación de los acuerdos del proceso de Bolonia en educación superior y el reconocimiento mutuo de los Títulos otorgados. Los autores prueban que, con algunas excepciones, es imposible capacitar a un abogado universal que tenga buenas perspectivas de empleo en varios países. La solución se ve en el desarrollo de programas de posgrado con orientación internacional, incluidos aquellos con formas de educación a distancia y en red.

Palabras clave: C

1. Introduction

Integration, globalization, the lack of stability and a constant change in social relations have become realities of the 21st century and an essential part of our life. The concept of "internationalization" has many aspects. Researchers mention the internationalization of business, capital, entrepreneurship, standards, the ways of programming, language means of communication, etc. In this article, we consider internationalization as a part of integration of Russian education into the educational systems of other countries. The new realities include a constant change of educational standards, the introduction of new educational technologies, a shift to the competency-based training model, the integration of science and practice, the development of student mobility, and the emergence of new fields

of training.

However, over the centuries the sphere of education and legal training in particular have been considered very conservative. A prototype of the future research university appeared in Germany only in the beginning of the 19th century and had not changed much up to the beginning of the 21st century (Humbot, 2009).

The Bologna process was an outcome of the globalization of labor and education markets and was supposed to facilitate these processes as well as the factors of unification associated with them, which would make possible the recognition of academic qualifications, the joint introduction of quality assessment systems, and the integration of educational programs. These efforts were aimed at enhancing university graduates' employment prospects in different countries.

A number of interconnected processes influenced the legal policy of the Russian Federation in the field of education: economic postmodernization; the internationalization of education; overall globalization. A process of economic postmodernization started in the 1980s was characterized by the introduction of computer technologies, a rapid development of small and middle-size business, and the emergence of new production sectors, including high tech industries. It had an impact on the educational process that resulted in a wide use of computer technologies and on-line training. Universities started to offer open courses via the Internet, major libraries digitized their resources that made the search easier and the information more accessible.

A wide spread of Internet technologies resulted in the emergence of new forms of training, in particular, an extramural form of study with the use of distance technologies as well as a network format of learning that all standards in legal education provide for. A number of major federal Internet portals where leading universities place their law courses have been established. In Russia, such resources include Open Education, which was launched with the support of the Ministry of Science and Higher Education of the Russian Federation, and Lektorium. The most successful international on-line resources are Coursera and EdX (established by Harvard University and the Massachusetts Institute of Technology).

The Association "National Platform of Open Education" joins resources of ten leading Russian universities that provide their courses through the platform. Other universities can integrate these courses in their study plans and use the content developed by leading scientists to train their students. According to the information on the website, Open Education platform currently offers 263 courses with 567 000 students enrolled.

As one can see, economic postmodernization has conditioned the creation of new educational platforms, so it is directly connected with the integration and internationalization of education. However, internationalization has not been so widely implemented in legal education. Thus, at the international conference The System of Training of Legal Professionals in Russia and Germany in 2006, representatives from Germany were rather skeptical when estimating possibilities of academic mobility and mutual recognition of diplomas and employment of lawyers trained in Germany, for instance, in Russia (Shpakovskaya, 2007). Over fifteen years have passed from the moment of signing the Bologna Declaration, and experience has shown that it is difficult for graduates of Russian universities' law programs to find employment abroad. Graduates of foreign law schools also encounter similar problems when pursuing legal carrier in Russia. It is worth emphasizing that we do not consider a limited number of specialists in international law.

To understand the reason for this situation, it is necessary to turn to the list of legal training programs. The current federal standards provide for the following programs (so-called "directions of training") that allow to get qualification "lawyer":

- Direction of training for a Bachelor's degree "Jurisprudence";
- Direction of training for a Master's degree "Jurisprudence";
- Direction of training for a specialist's degree "Legal Support of National Security";
- Direction of training for a specialist's degree "Law Enforcement Activity";
- Direction of training for a specialist's degree "Judiciary and Prosecution".

It should be pointed out that all directions of training are oriented towards the national legal

system. For instance, the specialist degree programs train students for a carrier in state authorities and local government bodies. One needs citizenship of the country to take a state service position, and it is a common requirement in all countries of the world. Therefore, employment in other countries is impossible for the programs' graduates.

If we turn to the content of the standard for Bachelor degree programs, we will see that they contain over 20 mandatory courses that are based on the national legal system: the Theory of State and Law, Constitutional Law, Administrative Law, Civil Process, Labor Law, etc. A national system always prevails as a lawyer is trained for the needs of a particular country. Therefore, he or she will not have appropriate competencies to work in another country after obtaining a Bachelor degree in Law, that is a detailed knowledge of legislation, law enforcement practice, the system of government authorities, special aspects of interpreting the law, etc. Several internationally oriented courses that law students study, such as Constitutional Law of Foreign Countries, Comparative Legal Studies, Legal Systems of Foreign Countries, International Public and Private Law, provide only a general idea of state and legal systems of other countries. If we look at the competencies a student has to obtain, the standards do not provide for detailed study of other countries' legal systems. Moreover, the courses in Constitutional Law of Foreign Countries and Comparative Legal Studies have been excluded from the mandatory list of Bachelor degree programs. They can be included into study plans only if a university chooses to do so.

Culture, legal culture, legal awareness and legal thinking differ greatly not only in different legal families but also within individual national legal systems that belong to one legal family. There is no universal legal awareness or legal culture. They are derived from a number of factors: mentality, traditions, the level of development, national and spiritual features, and a national idea. Even a team of brilliant researchers and professors that carry out an educational program would not be able to foster in their students foreign legal culture, traditions and mentality as they themselves are bearers of national traditions.

Therefore, we come to a conclusion that sounds as an undeniable truth that the reformers of higher legal education did not take into account: the laws of physics and mathematics as well as chemical formulas are the same for all countries, whereas legal laws serve the interests of a certain society and state, and so do legal specialists who are oriented towards a national legal system.

In fact, it is impossible to train a universal lawyer who would be capable to work in any country (apart from experts in international law and those who specialize in a limited number of international legal sciences). However, the Bologna agreements were aimed primarily at **mass processes** of academic mobility, the recognition of diplomas and employment prospects in most countries of the world.

It was expected that a transition to the legal culture that was alien to the Russian legal system and educational traditions would result in the recognition of national Diplomas in other countries. However, the analysis of the Bologna agreements indicates that there is no mutual recognition of diplomas. Section III of the Lisbon Convention says that Diplomas issued by one of the countries that have signed the Convention shall have a mandatory assessment. A mandatory assessment is not the recognition of Diploma in another country, and this is particularly true regarding the legal sphere. It is difficult to imagine how a citizen of the Russian Federation who received his or her degree, for instance, in Germany will execute justice in Russia. Moreover, "the Convention does not provide for obligations to recognize a Diploma even if all formal requirements are met (the credit system, a unified form of the Diploma and diploma supplement), and the recognition of Diploma in Law is most problematic" (Bondar, 2013).

Therefore, the state legal policy in the field of the integration of higher legal education has not reached the expected results. The ways out of the situation have to be determined, which is the aim of this article.

2. Analysis and discussion

Article 107 of the Federal Law of the Russian Federation "About Education in the Russian

Federation" regulates the issues of the recognition of education and (or) qualifications obtained abroad. It refers to the international agreements on mutual recognition and the Decree of the Government of the Russian Federation dated 30 December 2015 No 2777-p. The latter sets a list of educational establishments that issue documents on education and (or) qualifications recognized in the Russian Federation (unilateral recognition). Diplomas of 170 universities from different countries (Australia, Austria, Germany, Belgium, Brazil, Great Britain, Denmark, Israel, Ireland, Spain, Italy, Canada, the Netherlands, New Zealand, Norway, USA, Finland, Switzerland, Japan, etc.) are recognized on a unilateral basis. However, if we turn to the official information provided by Federal Service for Supervision in Education and Science of the Russian Federation, the mutual recognition exists on the basis of international agreements with more than 70 countries of the world. These are mostly the former republics of the USSR as well as some Third World countries (Somalia, Laos, Pakistan, Malta, Suriname, Colombia, Venezuela, South Africa, Guinea, Sudan, etc.) (Official website of Rosobrnadzor). The comparison of the two lists shows that there is a peculiar one-sided "integration". Russia recognizes qualifications obtained in the leading universities of the world, whereas Russian diplomas are recognized in a rather limited number of countries. Moreover, the recognition of qualifications in law has even more problems compared to those in engineering and natural sciences.

In this regard, it is worth to remember a well-known legal axiom: law does not generate social relations but only regulates them. The legal norms referring to the integration of legal education were formulated by lawmakers and did not take into account real national and international social relations. The introduction of the Western standards of credits, the two-level system of education, the transition of postgraduate study to the third level of education face much difficulties.

It is important to reminding that the content and forms of education are derivative from the system of values that vary from country to country. The Bases of Social Concept of the Russian Orthodox Church approved by the Assembly of Hierarchs of the Russian Orthodox Church in August 2000 state that "a cautious approach must be taken to the process of legal and political internationalization ... when implementing a policy connected with the acceptance of binding international agreements and activity of international organizations, governments must stand up for spiritual, cultural and other identity of countries and nations, lawful interest of the state" (The Bases of Social Concept of the Russian Orthodox Church, 2000). Modern social realities show that positive results of globalization are accessible only to the nations that make up a minor part of the global community. This brings up a question: to what extent it is necessary to take in everything that comes from globalization, and whether it is appropriate to carry it out in a specific country, for instance, in Russia, at the present moment and the current conditions.

Maleshin (2018) points out that "any country has a self-sufficient, unique legal system different from other countries. However, the integration processes erase national boundaries in law" (Maleshin, 2018). Other researchers emphasize the fact that "in the modern international law, the legal basis and the legal mechanism for cooperation between countries in the sphere of education at universal, regional and bilateral levels have been established, which allows to provide one of the fundamental human rights – the right to education" (Vavilova, 2016). However, the author comes to the conclusion that cooperation on a universal and even regional level with Russia's participation is rather sporadic and is implemented based on bilateral agreements with a limited number of countries. Regional international cooperation is carried out within the framework of the Commonwealth of Independent States. Some higher education institutions that operate under the jurisdiction of the Ministry of Internal Affairs (MIA) provide the training of cadets (future policemen) from Africa, for instance the Nizhny Novgorod Academy of MIA of the Russian Federation, Moscow University of Internal Affairs of the Russian Federation named after V.Ya. Kikotya.

Let us remind that the Bologna agreements, which Russia joined in the course of the democratic reforms, are also part of the legal policy in the sphere of education. As it has turned out in practice, Russia's participation in the European integration processes was only formal. Whereas "the European Union, which has been committed to its policy of accelerated integration, has been implementing different programs: *Comenius* – for school education,

Leonardo da Vinci – for vocational education and lifelong learning, *Erasmus* – for higher education. Starting from 1987, over 3 million students have received *Erasmus+* scholarships. There will be over 4 million scholarship holders from 2014 to 2020" (Semenova, 2015).

In the meantime, the two-level system of lawyers' training have not been adopted in Germany, which emphasizes the distinctiveness of legal education and the existence of sensible national conservatism despite both conjuncture considerations and globalization processes (Romermann & Paulus, 2003).

Up until now, there are many rudiments in England, which is the birthplace of case law. In particular, the dualism of the legal profession that is subdivided into solicitors and barristers whose training differs correspondently (Stimpson, 2000).

In USA there are no unified programs for training lawyers as education lies within the responsibility of the states and not the federal government. The selection of courses in the program is based on the principles of pragmatism and electivity (Friedman, 1985; Dubin, 2000; Rekosh, 2005). Therefore, "very few American lawyers are aware of the Roman law, the history of law and legal doctrines and, at best, have a rather superficial idea of the foreign law" (Merezhko, 2001). Other researchers say that the processes of globalization have caused the study of Islamic law in USA universities. At the same time, the American model of legal education comes under criticism from German researchers (Hochstettler, 2003). In light of this, here is a question: if legal education is so specific, how we are supposed to deal with its internationalization?

3. Results

The Bologna process in the sphere of internationalization of legal education has not produced the expected results. This is conditioned by a number of reasons: it turned out that society and state not only in Russia but also in other countries were not ready for a full-blown implementation of the Bologna agreements; the imposed values turned out to be alien to our mentality and educational traditions in the field of legal training, which emphasizes the thesis that the legal superstructure is conditioned by the existing social relations. Otherwise, the norms that do not take into account social realities, including the world ones, are doomed to be "dead" and work "defectively".

A reader might have an illusion that we are against the internationalization of legal education. However, our aim is to bring to light the problems and offer ways out of them.

If we want a real internationalization of higher legal education, the legal policy in this sphere must be scientifically based and consistent. It is necessary to involve legal researchers in the development of the corresponding normative legal acts.

Despite the fact that legal research is also oriented towards the national legal system, some legal sciences do not have territorial boundaries, for instance "the philosophy of law" that is developing within the framework of the theory of state and law; "comparative legal studies"; "the sociology of law"; criminology" (in some countries called "criminal sociology"); "criminalistics", etc. Some sections of legal sciences do not have national boundaries. They include the methodology of legal science; "history of legal science"; "Roman law". Despite some difficulties, Russian legal science is making its way in other countries of the global community. Noteworthy is the fact that Zakhartsev and Salnikov's monograph *The Philosophy of Law and Legal Science* was published in English in Cambridge by Cambridge Scholars Publishing (Zakhartsev & Salnikov, 2018) and is recommended to students who study in foreign universities (Galiev & Rayanova, 2018). This is a vivid example how some works of Russian legal scientists are in demand in other countries.

The analysis of the competencies provided for by the standard of postgraduate study shows that they are not oriented towards the national legal system. Moreover, they give more freedom to universities when it comes to determining the professional competencies. Only one of general professional and universal competencies is tied to the national legislation: it is the general professional competence defined as "possess an ability to develop new methods of research and their application in independent research activity in the field of law

in compliance with the legislation of the Russian Federation regarding copyright law". If some competencies are not tied to the national legal system, then some universal competencies have an international character. For instance, "readiness to use modern methods and technologies of scientific communication in state and foreign languages"; "readiness to participate in the work of Russian and international research teams to address scientific and educational tasks".

4. Conclusion

Internationally oriented postgraduate programs with a corresponding research subjects may also be in demand from international students. Provided the training is properly organized, graduates of our postgraduate programs may pursue a teaching or research carrier abroad. All Russian federal postgraduate standards contain preconditions for erasing boundaries when training postgraduate students as they allow distant and network forms of education. However, in order to create high quality contents and position them in other countries, universities need support of the Ministry of Science and Higher Education of the Russian Federation. Moreover, the ministry should make efforts to sign corresponding interstate agreements. It should be emphasized that post-graduate programs with international competences will be attractive for international students, as after getting diplomas awarded by Russian universities and recognized in other countries, they will be able to work there as researchers. Russian post-graduate students will also be able to work abroad after completion of their education in Russia, as they will have the needed competencies and internationally recognized diplomas.

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[Index]

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