

REFINING LEGAL STANDARDS: CHALLENGES IN GENERAL SECONDARY EDUCATION REGULATION

APERFEIÇOAR AS NORMAS JURÍDICAS: DESAFIOS NA REGULAMENTAÇÃO GERAL DO ENSINO SECUNDÁRIO

PERFECCIONAMIENTO DE LAS NORMAS JURÍDICAS: DESAFÍOS EN LA REGULACIÓN GENERAL DE LA EDUCACIÓN SECUNDARIA

OLEKSANDR AKIMOV

Doctor of Science in Public Administration, Professor of the Department of Public Administration, Interregional Academy of Personnel Management; Scientific and Methodological Center for Personnel Policy of the Ministry of Defense of Ukraine, Kyiv, Ukraine.

<https://orcid.org/0000-0002-9557-2276>
970aaa@ukr.net

MYKOLA MYKYTIUK

Doctor of Science (Law), Professor, Institute of the Department of the State Protection of Ukraine, Taras Shevchenko National University of Kyiv, Kyiv, Ukraine.

<https://orcid.org/0000-0002-1759-7312>
mmavinnicia@ukr.net

YAROSLAV SKOROMNYI

Doctor of Legal Sciences, Associated Professor, Professor of the Department of Judiciary, Advocacy, and Prosecution, Institution of Higher Education "Lviv University of Business and Law", Lviv, Ukraine.

<https://orcid.org/0000-0002-4067-710X>
yarik8880@ukr.net

VALERIY SEREDA

Doctor of Law, Professor, Director of the Educational and Scientific Institute of Law and Social and Humanitarian Sciences, Institution of Higher Education "Lviv University of Business and Law", Lviv, Ukraine.

<https://orcid.org/0000-0002-7249-0323>
valerasrd@gmail.com

LYUBOMYR SOPILNYK

Doctor of Law, Doctor of Technical Sciences, Professor, First Vice-Rector, Institution of Higher Education "Lviv University of Business and Law", Lviv, Ukraine.

<https://orcid.org/0000-0001-6581-7255>
Sopilnyk01@gmail.com

ABSTRACT

Objective: The study aims to analyse the regulatory and legal administration of general secondary education as a process in Ukraine and the use of relevant regulatory and legal instruments to structure the educational space.

Methods: The article analyses that the regulatory and legal administration of general secondary education as a process in Ukraine is ensured through appropriate regulatory and legal instruments that ensure the integrity and structure of the educational space. The article reveals the correlation and interrelation between such clusters as learning outcomes of an institution providing primary general secondary education and a typical curriculum regulated by basic curricula.

Results: The study results will be helpful for legislators, educational entities, administrators of general secondary education institutions, teachers, and education professionals. Accordingly,



their application in practice will make it possible to administer secondary education institutions more efficiently.

Conclusion: The study's practical value is due to the fact that the normative regulation of legal relations in general secondary education is regulated by a number of legal acts that require significant improvement.

Keywords: martial law, state standard, computer equipment, methodological recommendations, regulatory and legal administration.

RESUMO

Objetivo: O estudo tem por objetivo analisar a administração regulamentar e legal do ensino secundário geral enquanto processo na Ucrânia e a utilização de instrumentos regulamentares e legais relevantes para estruturar o espaço educativo.

Métodos: O artigo analisa o facto de a administração regulamentar e legal do ensino secundário geral como um processo na Ucrânia ser assegurada através de instrumentos regulamentares e legais adequados que garantem a integridade e a estrutura do espaço educativo. O artigo revela a correlação e a inter-relação entre grupos como os resultados de aprendizagem de uma instituição que oferece ensino secundário geral primário e um currículo típico regulado por currículos básicos.

Resultados: Os resultados do estudo serão úteis para legisladores, entidades educativas, administradores de estabelecimentos de ensino secundário geral, professores e profissionais da educação. Assim, a sua aplicação na prática permitirá uma gestão mais eficaz dos estabelecimentos de ensino secundário.

Conclusão: O valor prático do estudo deve-se ao facto de a regulação normativa das relações jurídicas no ensino secundário geral ser regulada por um conjunto de diplomas legais que carecem de melhorias significativas.

Palavras-chave: lei marcial, norma estatal, equipamento informático, recomendações metodológicas, regulamentação e administração jurídica.

RESUMEN

Objetivo: El estudio busca analizar la administración regulatoria y legal de la educación secundaria general en Ucrania y el uso de los instrumentos regulatorios y legales pertinentes para estructurar el espacio educativo.

Métodos: El artículo analiza que la administración regulatoria y legal de la educación secundaria general en Ucrania se garantiza mediante instrumentos regulatorios y legales adecuados que garantizan la integridad y la estructura del espacio educativo. El artículo revela la correlación e interrelación entre grupos como los resultados de aprendizaje de una institución que imparte educación primaria y secundaria general y un currículo típico regulado por los currículos básicos.

Resultados: Los resultados del estudio serán útiles para legisladores, entidades educativas, administradores de instituciones de educación secundaria general, docentes y profesionales de la educación. Por consiguiente, su aplicación práctica permitirá una administración más eficiente de las instituciones de educación secundaria.

Conclusión: El valor práctico del estudio reside en que la regulación normativa de las relaciones legales en la educación secundaria general está regulada por una serie de leyes que requieren mejoras significativas.

Palabras clave: ley marcial, norma estatal, equipos informáticos, recomendaciones metodológicas, administración regulatoria y legal.



1 INTRODUCTION

The regulatory and legal administration of general secondary education as a process in Ukraine is ensured through the use of appropriate regulatory and legal instruments that ensure the educational space's integrity and structure. At the same time, there are inevitable conflicts inherent in the regulatory and legal administration of general secondary education, which are proposed to be analysed in this article, with individual approaches to levelling them.

The significance of this topic is directly related to the fact that education is a basic human need, and therefore, without it, the practical activity of every specialist and professional is impossible. Accordingly, today, we can speak of a market for educational services, as such services have consumers, providers, intermediaries, and suppliers. The provision of educational services is reflected in financial documents, which are carefully studied by higher authorities.

Moreover, the scope of documents regulating educational services is gradually expanding. We can discuss the exceptional importance of not only the legal acts that directly regulate the system of general secondary education but also strategic documents that define the directions of education development and local regulations that define aspects of the educational process of specific educational institutions.

2 LITERATURE REVIEW

Many domestic researchers research the regulatory regulation of legal relations in the field of general secondary education. This can be explained by both the significance of this problem and the importance of its solution in improving the management of secondary education institutions. At the same time, domestic researchers emphasise that such regulations are somewhat limited in application and relate to typical educational institutions without focusing on regulating specialised institutions.

Thus, the scientist Hubarev (2020, p. 40), in his work "Regulatory and Legal Regulation of Educational Services in Ukraine", draws attention to local regulatory activities that allow schools to remain autonomous. In the works of Kizil (2022, p. 115), Amelicheva (2020, p. 110), and Marchenko (2019, p. 280), we find the statement that increased decentralisation has influenced changes in the management of general secondary schools, in particular, the democratisation of management has emerged.



Scientists Chyrva (2019, p. 135) and Yastremska (2016, p. 665) emphasise that the reform of the legislative framework for the administration of general secondary education has led to the emergence of such terms as “trainee teacher” and “contract teacher”.

Researcher Durdas (2024, p. 100), in her article “Regulatory and Legal Support for the Reform of General Secondary Education in France and Ukraine (1991–2021)”, emphasises that the regulatory framework for primary education in Ukraine has come a long way and continues to improve. Berezivska (2019, p. 20; 2020, p. 55) also agrees with this, drawing attention to the historical stages of the formation of concepts and educational programmes in Ukraine in different historical periods.

In their works, researchers Balynska (2022, p. 130), Kryvoruchko and Shevchenko (2021, p. 130) focused on the legal regulation of primary secondary inclusive education. They note that only a tiny part of the legislation regulates this issue, affecting educational services’ quality.

The scientist Lysianska (2016, p. 12), in her work “Educational Psychology”, draws attention to the fact that legal acts should consider the peculiarities of children’s age range. The researcher agrees with the scientists Holovenkin (2019, p. 60), Novitska (2024, p. 59), and Rohova (2028, p. 66), who believe that legal regulation does not sufficiently consider the age characteristics of school students. Researchers Ohneviuk and Sysoieva (2012, p. 50), Byrkovych et al. (2023), Kabanov (2021, p. 5) are convinced that the legal acts in education do not sufficiently consider the age differences between secondary and higher education students.

Researchers Movkebayeva et al. (2020, p. 15), Yermachenko et al. (2023), Hartley et al. (2016, p. 280) believe that the legal regulation of primary and secondary education in Ukraine should be improved, in particular considering Kazakhstan’s experience. At the same time, scientists Pavlenko (2021, p. 70), Svitlak (2020, p. 42), Kussainov et al. (2023), Telychko (2022, p. 210) are convinced that the regulation of secondary education institutions, in particular, their financing, should take place given the digitalisation of the education sector.

Therefore, the existing regulatory framework is sufficient to conduct the study.

The article aims to analyse the regulatory and legal administration of general secondary education as a process in Ukraine and the use of relevant regulatory and legal instruments for structuring the educational space. At the same time, it is necessary to outline the importance of the regulatory and legal instruments for the



administration of general secondary education, which operate on the principle of mutual sectoral complementarity, and to provide suggestions for its improvement.

3 RESULTS

It is essential to focus on such a component of the regulatory and legal administration in general secondary education as the documents regulating the receipt of funds by educational institutions. For example, the Budget Code of Ukraine No. 2456-VI (Budget Code of Ukraine, 2010) allows for several sources of funding for educational institutions. This is a significant advantage since, at the present stage, the budget is being redistributed due to the war, which leads to institutions not receiving enough funds for their financing. In addition, the distance education system is currently being developed, which leads to educational institutions needing additional resources for their functioning.

For example, according to paragraph 3 of Article 71 of the Code (Budget Code of Ukraine, 2010), the development budget of local budgets includes capital budget expenditures directed to education (primarily in terms of the introduction of information and communication development and computer equipment of secondary education institutions). According to specific provisions of the same Code (Budget Code of Ukraine, 2010), educational subventions can be used to cover expenditures on complete general secondary education.

Also, according to the regulatory provisions of Art. 103-3 (Budget Code of Ukraine, 2010), a subvention in the field of education may provide for state support for persons with special educational needs (to the issue of financial support for inclusive educational space). Such subventions, by Part 2 of Article 103-3 of the said legal act, finance the conduct of psychological and pedagogical and correctional and developmental classes in general secondary education institutions, as well as financial and economic support for the purchase of unique means of correction of psychophysical development, the purpose of which is to help in mastering the curriculum in general secondary education institutions.

I want to note that budgetary funding for information and communication development and computer equipment of general secondary education institutions, prescribed by the legislator in clause 3 of Article 71, in my opinion, requires more detailed specifications. For example, it would be advisable to specify that such funding is provided to adapt the primary curriculum (adaptation and modification activities,



improvement of information and communication and logistical support of educational equipment) to the practical realities of general secondary education and the relevant educational environment.

Accordingly, I propose to set out the latter in the following wording: “The development budget of local budgets includes capital budget expenditures directed, among other things, to the integration of the basic curriculum into the educational process of general secondary education to introduce auxiliary tools (adaptation and modification activities, improvement of information and communication and material and technical support of educational equipment) in proportion to the requirements and needs of a particular educational environment”.

In my opinion, such a normative connotation in the issues of budgeting for general secondary education in accordance with clause 3 of Article 71 may result in a more transparent, open, and efficient use of budget funds, improving the quality of general secondary education and its material and technical base in the context of its innovative development.

In addition, state-funded information and communication and adaptation and modification innovations will serve as an additional component of improving the professional information and digital skills of employees of general secondary education institutions. The latter is necessary to closely converge the national educational paradigm with the European educational space.

According to the provisions of paragraphs 3-4 of Part 3 of Article 103-6 (Budget Code of Ukraine, 2010), as an element of regulatory and legal administration in the field of general secondary education, the national legislator also considers the provision of additional subsidies from the state budget of Ukraine related to the field of education and, in particular, the material and technical support of general secondary education institutions in the process of carrying out academic and educational activities.

According to this regulatory position, such subsidies are a means of implementing educational goals in the general secondary education system and achieving the purpose of the curriculum. Thus, the use of additional subsidies as a component of the administrative and legislative regulation of the general secondary education system is strategic, as it is based on the principle of supporting the sustainable development of the education sector.



In the future, I propose to focus on reviewing bylaws, an element of regulatory and legal administration in general secondary education.

The latter include Resolutions of the Cabinet of Ministers of Ukraine and Orders of the Ministry of Education and Science of Ukraine that regulate the organisational aspects of the educational process in this area, as well as licensing conditions for educational institutions that determine the procedure and algorithm for accreditation of the latter. Below are examples of relevant bylaws that define the specifics of the administration of general secondary education in Ukraine by authorised institutions.

In my opinion, the Resolution of the Cabinet of Ministers of Ukraine No. 898 of 30 September 2020, “On Some Issues of State Standards of Complete General Secondary Education” (2020), can serve as an example of a basic bylaw in the field of administration of general secondary education. This document, in particular, defines a list of mandatory conditions for the student’s learning outcomes, forms the goal of complete general secondary education, and specifies a list of possible ways, means, and mechanisms for implementing the above goal by general secondary education institutions in Ukraine.

In particular, clauses 6–7 of the Resolution of the CMU (CMU, 2020), which detail the requirements for learning outcomes in general secondary education through a competence-based approach, are valuable and applicable in the above context. The national legislator, in particular, includes fluency in the state language by educators and students, communication skills, and the ability to process data (information) from various sources, depending on its type and purpose.

A separate competence requirement for providers and students of secondary education in secondary schools, as stated in paragraphs 6-7 of this document, is the mandatory ability to use the state (Ukrainian) language not only at the level of official (academic) communication but also at the level of private communication to solve existing and potential life and professional situations (CMU, 2020).

I want to note the systemic role of the legislator’s combination of the approaches mentioned above to understanding learning outcomes as an element of regulatory and legal administration in the educational sphere through the Resolution. The latter allows us to highlight the connection between the educational process and the direct skills of the educational space’s subjects (competences). This correlation has a multifactorial purpose: it regulates students’ and educational service providers’ development of academic and social skills.



Accordingly, it is about primary education and the opportunity to study further if a person has already graduated from school and a higher education institution. Today, the issue of financial support for lifelong learning is quite complex, as it requires interaction between different providers and recipients of education. Such institutions may have different levels of accreditation, as well as material and technical facilities for teaching students and professional staff. Therefore, their funding should be provided from the city budget and institutions and organisations that plan to employ such graduates.

The next component of the governance of the sphere we have identified is the Resolutions of the Cabinet of Ministers of Ukraine. In particular, “On some issues of state standards...” (CMU, 2020), which defines the role of the primary curriculum in ensuring that students acquire the necessary competences. However, the document does not define the procedure for educational institutions if such a plan cannot be followed. In particular, if guided by such a plan, the teaching staff would have more opportunities to propose their ideas for the curriculum.

In addition, the competences defined in the document cannot be implemented sufficiently in educational institutions due to funding problems, a lack of material and technical resources, and a lack of pedagogical specialists.

In particular, according to clause 25 of the Resolution of the CMU (CMU, 2020), an institution’s plan should contain structural elements such as the approximate number of hours for disciplines and academic areas, adaptation and modification activities of the institution, and improvement of the material base.

In this context, it is also advisable to note that the basic curriculum is integrated by the scientific and pedagogical staff of general secondary education institutions (an aspect of informatisation and inclusion), which raises the general secondary education level through proper regulatory and legal administration.

Also, it is advisable to focus on some conflicts (inconsistencies) in implementing regulatory and legal administration in general secondary education through the Cabinet of Ministers Resolution. For example, paragraphs 6-7 of this legal act detail the requirements for the competences of general secondary education subjects. However, the latter are exclusively generalised, relate to final learning outcomes and do not relate to specific (sectoral) areas of knowledge.

In my personal opinion, it would be advisable to add the following regulatory connotation to paragraphs 6–7 of the Cabinet Resolution: “The definition of mandatory



learning outcomes based on a competence-based approach should provide for the creation of a mechanism to encourage the improvement of students' academic qualifications in specific disciplines of the educational programme. This includes humanitarian, mathematical, technical skills and abilities necessary for a qualified and complete mastery of the relevant sciences.”

I believe that a regulatory and legal approach to the administration of general secondary education will help improve the professional qualifications of students and educational service providers.

The problem that arises at the level of regulatory and legal administration of general secondary education, according to paragraph 25 of the Resolution, is the lack of adaptation of theoretical elements of the adaptation of the primary curriculum (adaptation and modification activities, improvement of information and communication and material and technical support of educational equipment) to the practical realities of general secondary education and the relevant educational environment.

The existence of the standards specified in clause 25 of the Resolution at a static level does not allow for determining the precise field of application of the latter in the educational process (CMU, 2020).

Therefore, I propose to modify the provisions of clause 25 of the said legal act as follows: “The integration of the primary curriculum into the educational process of general secondary education should be based on the introduction of auxiliary tools (adaptation and modification activities, improvement of information and communication and material and technical support of educational equipment) in proportion to the requirements and needs of a particular educational environment. As a general rule, the methodology of adaptation and modification activities should be used to improve the effectiveness of the game-based learning format for children with special educational needs; the method of improving the communication and material and technical support of educational equipment is designed to facilitate the interaction of students and educational service providers with modern digital technologies.

The combination of the above measures should strategically improve the effectiveness of social and academic development in general secondary education.

From now on, in the context of reviewing the specific features of the regulatory and legal administration of general secondary education at the subordinate level, I consider it appropriate to focus on the Order of the Ministry of Education and Science of Ukraine No. 563 of 15.05.2023 “On approval of methodological recommendations



on certain issues of education in general secondary education institutions under martial law in Ukraine” (Ministry of Education and Science, 2023). This regulatory act defines some features of the educational process in general secondary education institutions in Ukraine. Also, it provides relevant recommendations to general secondary education students who are citizens of Ukraine and are forced to stay abroad.

In particular, from the point of view of the regulatory and legal administration of general secondary education in Ukraine, clause 1 of the Order of the Ministry of Education and Science of Ukraine (Ministry of Education and Science of Ukraine, 2023), which gives priority to full-time education, provided that its implementation is safe for the life and health of educational service providers and students, seems necessary.

At the same time, in clauses 2 and 3 of the Order mentioned above of the Ministry of Education and Science of Ukraine (Ministry of Education and Science of Ukraine, 2023), the national legislator grants general secondary education students who are citizens of Ukraine the discretionary right to obtain the appropriate level of education both in Ukraine and abroad (provided that the child has left his or her place of residence in Ukraine due to the full-scale military aggression of the Russian Federation). It is also stressed that education abroad is subject to legal regulation exclusively by the host country and is entirely under the latter’s administrative jurisdiction.

I also want to draw attention to the fact that paragraphs 17–19 of the Order mentioned above (Ministry of Education and Science of Ukraine, 2023) emphasise some procedural elements (components) of the organisational conduct of educational activities under martial law.

In particular, the national legislator thinks that the right of students to continue their education (obtaining a relevant educational qualification) under martial law is subject, where possible (in the jurisdiction controlled by Ukraine), to state provision. The competence and direct responsibilities of general secondary education institutions arising from the above regulatory framework for the administration of general secondary education include the transfer of students by the established procedure for the next academic year, the issuance of certificates of academic achievement and/or report cards, as well as relevant profile documentation on education for each student (applicant).



4 DISCUSSION

Thus, the issue of regulatory and legal regulation of the administration of general secondary education is controversial. On the one hand, the existing regulations define the main aspects of educational institution management, particularly the solution of financial, economic, and business issues. This allows us to discuss the legal basis for administering primary and secondary education.

On the other hand, this issue is not sufficiently represented in existing regulations. Thus, little attention is paid to the inclusive educational environment, which differs from the standard one. At the same time, such institutions should be administered according to separate regulations rather than according to standard programmes.

It should also be noted that modern education should be based on digital transformation, while regulations pay only minor attention to computer technologies in schools. This suggests that the domestic legal framework is outdated compared to foreign ones.

It is necessary to improve the regulatory framework for this issue. In our opinion, this can be done by adopting a law or legislative act that will regulate the organisation of distance schools, which, in particular, operate in this format because they were previously located in the occupied territory. For such institutions, funding and the overall organisation of the educational process are complex issues, as they previously had a different organisational form.

In addition, it would be advisable to expand the funding sources for general secondary schools. Since funding is allowed not only from municipal budgets, it would be good to pay more attention to funding organisations and institutions that provide lifelong learning. Defining this aspect in legislation would expand the range of educational subjects and allow educational institutions to have additional resources to carry out their activities.

It is also possible to propose that the Cabinet of Ministers and the Ministry of Education and Science of Ukraine should allow educational institutions, including specialised and inclusive spaces, to determine their own areas of expenditure. This will positively impact the material and technical support of institutions, their functionality, and computerisation in general.



Therefore, we can discuss the controversial nature of this problem and be concerned about the transformation of education legislation and its imperfections.

5 CONCLUSION

The study has revealed that the regulatory regulations of secondary general education institutions need to be improved. This can be explained by the current challenges, as problems with funding and changes in the activities of many educational institutions lead to the fact that it is not always possible to carry out effective administration of educational institutions. At the same time, the findings reflect the following.

Firstly, we can talk about the division of normative acts of management of educational institutions, namely the basic ones, into constitutional, sectoral, and regulatory ones on the receipt of funds and bylaws. We traditionally refer to the Constitution of Ukraine as constitutional. This document stipulates that everyone has the right to education, so educational institutions cannot restrict access to educational services.

Sectoral regulations are the Laws of Ukraine. They relate to the main issues of education, the functioning of basic education institutions, the regulation of control over the quality of educational services, and the determination of the system and structure of the basic education system. They describe the administration in more detail, which allows us to discuss the focus of these acts in the operation of educational institutions.

The regulatory framework for the receipt of funds is distinguished by the fact that it relates specifically to financing basic secondary education. The main one is the Budget Code of Ukraine. It clearly defines the sources of funding for educational institutions, the procedure for distributing funds between institutions, and the specifics of expenditures of educational institutions. At the same time, they do not fully consider the financial activities of educational institutions currently operating in a distance format.

Bylaws include Resolutions of the Cabinet of Ministers of Ukraine and Orders of the Ministry of Education and Science of Ukraine. These acts primarily define the fundamental aspects of regulating the educational process's organisation and the institutions' functioning. Such acts are mostly temporary in nature, as they define the activities of institutions for a certain period.



Secondly, all together, these normative acts constitute a system that both defines the functioning of primary secondary education institutions and complements other areas, as they define documents on the administration of educational institutions, administration in general, and financing of educational institutions. However, we cannot say that the regulatory framework is focused only on these acts, as there are more, but we have focused on the main ones. In addition, constitutional acts define only the main aspects of the functioning of such institutions but do not fully regulate the administration issues as defined in other acts.

Therefore, this study has identified strengths and weaknesses in the regulatory framework for educational institutions. Our recommendations can improve the regulation of this sector.

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