THE STATE OF INTERNATIONAL LAW IN THE FIELD OF EDUCATION IN THE CIS COUNTRIES

BDT ÜLKELERİNDE EĞİTİM ALANINDA ULUSLARARASI HUKUK DEVLETİ

ГОСУДАРСТВО-СУБЪЕКТ МЕЖДУНАРОДНОГО ПРАВА В ОБЛАСТИ ОБРАЗОВАНИЯ СТРАНЫ СНГ

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Abstract

This article briefly reviews current problems of international law in the field of education in the CIS countries. Authors have paid their special attention on the comparative analysis of the laws about education among the CIS member states, on the number of measures used in above states that are supposed to provide the principle of general effect of basic education.

Key Words: international law, educational space, legislation, international cooperation, educational law.

Özet

Bu makalede, BDT ülkelerinde eğitim alanında uluslararası hukukun mevcut problemleri gözden geçirilmekteidir. Yazarlar temel eğitimin genel etkisi ilkesini sağlamak gerektiğini vurgulamaktadırlar. Ülkelerde kullanılan önlemlerin çeşitli ve

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International law in modern conditions becomes a decisive factor of fruitful activity in all the spheres of social life. The importance of this role is extremely high also in the field of education, especially in conditions of intensive expansion of the world educational space. Therefore it requires knowledge and skillful application of norms of the international law while implementing international cooperation in the field of education and while protecting of educational rights and legitimate interests of students, teaching staff, educational institutions and other participants of the educational relations.

First, knowledge of the norms of international law allows understanding the rights and obligations of participants in international educational relations, the order of their implementation and thereby determines the best course of action for the period of the contract signing and in the process of its implementation, as well as to search expertly the future partner.

Secondly, there are legal sources which make provisions for the application of responsibility directly towards educational institutions for their improper or untimely fulfillment of international law obligations. Hence, information on conditions of legal liability application and size of international legal sanctions is a prerequisite for determining the correct position of the educational institution towards their participation in the relevant legal relationships and specific commitments in this regard.

Thirdly, norms of international law act as a guarantor of constitutional and other legal rights and freedoms of citizens of the Republic of Kazakhstan due to the fact that in accordance with Article 4 of the Constitution of the RK the recognized principles and norms of international law and international treaties of the Republic of Kazakhstan are an integral part of its legal system ([The Constitution of the Republic of Kazakhstan of August 30, 1995](https://example.com)). Hence, in cases of conflicts of international law and rights or the law of the RK subject the clear priority should be given to international law and the conflict must be resolved in favor of the abovementioned laws. If international treaty of the Republic of Kazakhstan establishes other rules than those provided by law in accordance with Part 3 of the Article 4 of Constitution of the Republic of Kazakhstan the norms of international treaty are implemented ([The Constitution of the Republic of Kazakhstan of August 30, 1995](https://example.com)). The RK Constitution also provides the right of its citizens to apply international bodies for the protection of human rights and freedoms if all available domestic means of legal protection are exhausted.
There are currently several hundred sources of international law adopted directly on education or containing separate norms on these issues. This document adopted by the General Assembly of the United Nations (UN) and its specialized agencies - the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labor Organization (ILO), regional and international organizations - the Council of Europe and the Commonwealth of Independent States and bilateral agreements of the Republic of Kazakhstan with other countries as well.

In January 1993 the post-Soviet states have generated solution to introduce the Charter of the Commonwealth of Independent States. This Commonwealth is based on the principle of the sovereign equality of all its members as independent and equal subjects of international law. The Commonwealth is not a state and does not have supranational powers.

According to the Charter cooperation in the field of education is one of the areas of humanitarian, political and cultural cooperation on the basis of good neighborliness, worldview, confidence, inter-ethnic harmony is carried through the implementation of joint projects and programs in the field of science, education, culture and sports. Ensuring human rights and fundamental freedoms - is the sphere of joint activities of member-states that is realized on an equal basis through common coordinating institutions (CIS Charter of January 22, 1993).

The principal legal basis of bilateral relations in the field of cooperation for creating a common educational space of the CIS are different kinds of concepts, conventions and model legislative acts (laws).

Almost immediately after the CIS foundation in 1992 ten heads of governments of the Commonwealth of Independent States (CIS) signed an agreement on cooperation in the field of education and agreement on cooperation in the field of scientific and pedagogical staff and notification of documents about their qualifications within the CIS. In these documents those states announced their desire to satisfy mutual needs to teach citizens, schooling, retraining and advanced training of workers and specialists. They guaranteed the equality of all educational institutions within their national systems and perpetual recognition in their territories issued in the member-states at the time of these agreements signing state documents on secondary, higher education, retraining, to award academic degrees and titles

(Agreement on cooperation in the field of education of May 15, 1992. Agreement on cooperation in the field of scientific and pedagogical staff and notification of documents about their qualifications within the CIS countries).

However, under these agreements it was impossible to achieve the necessary cooperation to jointly solve the problems facing the national education systems.

In this regard, in 1997 the heads of the Republics of Azerbaijan, Moldova, Russian Federation, Belarus, Kazakhstan, Tajikistan, Armenia, Kyrgyzstan adopted the concept to form a single (common) educational space of the Commonwealth of

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Independent States on the basis of which important agreements on cooperation in the creation of a single (common) educational space of the Commonwealth of Independent States were produced and signed. This concept operated until 2000 but it has played a major role in the development of educational and legal relations between the CIS member states.

The essence of the Concept about forming a single (common) educational space of the Commonwealth of Independent States is defined in the basic principles, directions, conditions and steps for creating a unified educational space. The noted in this document unified educational space is characterized by common principles of state policy in the sphere of education, coordination of state educational standards, programs, regulations, terms of training at every level criteria and requirements for the preparation and certification of scientific and pedagogical staff, equal opportunities and free implementation the rights of citizens to get education in educational institutions on the territory of the CIS member-states. (The concept of forming a single (common) educational space of the Commonwealth of Independent States of January 17, 1997)

The basic idea of the Convention was to integrate participant-states of the CIS in the field of education would help to free access for citizens to the values of national cultures and creating conditions for the development and building a culture of interethnic communication. The basic principles of the common space is a convergence of national systems of education, consistency of educational standards, preparation requirements and learning programs are among the major formation of such a space is to develop proposals for legislation regulating issues of support and development of integration processes in the field of education, the expansion of interstate information exchange on education. The primary activities in this area are the following - the creation of interstate cooperation body, training and certification of scientific staff; drafting interstate program to form a single space, running research programs taking into account the developed program stages of the concept’s implementation such as the consistency of national legislations of CIS countries to realize the above objectives, the development of model legislation regulating relations in the sphere of education, interstate and national focal centers responsible for their implementation, the creation of the system of socio-economic, organizational and administrative mechanisms of international cooperation, including the consistency of information exchange principles on issues of education, develop harmonized determinants of education quality, training and certification of the teaching staff.

Direct and specific interaction between states in the creation of the Council for cooperation in education objectively elaborates on this Concept agreement on cooperation to form a unified educational space. Eight participants in the Council are signatories of the abovementioned agreement. The Council acts in accordance
with the Regulation on the Council which is an integral part of the Agreement approved by the heads of governments. Among the objectives of the Council there are such as training and certification in the field of education and scientific research and teaching staff through governmental education authorities. The Council is obliged to provide assistance in the formation of a unified educational space of the CIS member-states (Regulations about the Council to form a unified educational space of CIS member-states from 1994).

In recent years there were signed a number of agreements and documents: Agreement on cooperation in the dissemination of knowledge and adult education (1997), the Regulation on the implementation of the Agreement on Cooperation in the field of dissemination of knowledge and adult education (1997), Decision on the implementation of the Concept of the Interstate program of forming a single (common) educational space of the Commonwealth of Independent States (2001), etc. One of the latest is the Agreement on ensuring citizens of CIS countries to access educational institutions on the terms granted to citizens of these countries as well as on the social protection of students and teaching staff of educational institutions (2004). Thus, in accordance with this Agreement the CIS member-states have pledged to facilitate the admission in educational institutions of the Parties to the citizens residing in their territories under direct contracts as well as contracts between the general educational institutions.

It should be noted that these CIS documents are not directly applicable on the territories of its participants. To be generally binding the CIS regulations must be taken by the competent government authorities as intra own act.

With regard to the CIS educational legislation they are broadly consistent with the principles and norms of the Universal Declaration of Human Rights and strengthen the right of citizens to compulsory and free primary education; technical and vocational education in most countries is generally accessible. The most frequently encountered regulations among the principles in the CIS normative acts on education the priority ones are the following:

- humanism of education
- secular education;
- democratic character of education
- priority of human values;
- continuity of education;
- universal access to education;
- continuity of educational programs;
- diversity of educational institutions, programs and technologies;
- unity of the cultural and educational space;
- free general education.
However, the CIS states differently solve the question about the content of citizens’ rights on education and about ways to implement these rights. Thus, the list of provisions, legislators from different countries qualifying as principles of education or educational policy is quite diverse. What is typical there is no a single principle on education inherent to all the CIS member-states.

In all the CIS countries there is an extensive legal framework on education issues. Everywhere the major field document is the Education act (Education code, it should be noted that it has not been adopted in any country).

The greatest interest in normative and legal acts on education adopted by the CIS member-states is the model laws. Among the most important of them should be included laws such as the «Model law «On education», «Model law «On adult education», «Model law «On general secondary education», «Model law «On higher and postgraduate professional education», etc.

The comparative analysis on the laws about education in the CIS member-states notes the list of measures to ensure the general validity of the principle of basic education which is used by the states and is standard and little. This, in particular:

1) legislative consolidation of age at which the child is obliged to go to school and age at which the student may terminate his/her studies in an educational institution;

2) establish procedures and grounds for students’ dismissal from educational institutions;

3) creation of special educational institutions for minors with behavioral problems;

4) legal liability of parents (legal representatives) for evading their child (pupil) to fulfill the obligation to obtain a basic education. In all countries age limit to start education are set.

Educational legislation of the CIS is pretty tough focused on class-room based system that actually ignores the integration and innovative processes, advanced approaches in education and upbringing citizens, development of modern information technologies. As a consequence, the legal problems of common educational space development of the CIS may be considered as a low level of legal support:

- inclusion of educational systems of the CIS countries into one educational space which results in a small amount of joint programs and universities, mutual recognition of diplomas, insufficient dialogue of leaders and specialists of the educational sphere of the CIS countries;

- external autonomy of educational institutions and organizations that provide academic freedoms of higher educational establishments and teachers;
- implementation of academic mobility of students within the CIS frames, including ensuring the transfer of students from private higher educational establishments into the state ones; notification of diplomas from CIS countries and co-ordination of its levels;

- following the rights of students, parents and employers to participate in the management of education in the CIS frames;

- creating of the monitoring system and increasing quality of educational process and qualification of CIS countries’ teachers;

- increase in the number of students, promoting educational values, recruiting foreign students in the CIS countries;

- overcoming contradictions of educational legislation of the CIS countries with basic laws, civil and tax legislation of states, etc.

**LIST OF THE USED SOURCES:**


3. Agreement on cooperation in the field of education of May 15, 1992. Agreement on cooperation in the field of scientific and pedagogical staff and notification of documents about their qualifications within the CIS countries.


5. Regulations about the Council to form a unified educational space of CIS member-states from 1994