CONSTITUTIONAL GUARANTEES OF THE RIGHT TO EDUCATION AT THE HIGHER EDUCATION LEVEL

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Abstract. *The article analyzes the implementation of the constitutional right to education at the level of higher education. It examines the interrelation between the norms on the right to education and academic freedom enshrined in the new edition of the Constitution, as well as how these constitutional provisions are concretized in current subordinate legal acts. Mechanisms necessary for transforming the constitutional right from a declarative level into a practical guarantee are proposed.*

Keywords: *right to education, constitutional guarantee, higher education, academic freedom, state educational standard, legal mechanism, constitutional norm.*

Introduction. A distinctive feature of constitutional rights is that, although they possess the highest legal force, their practical fulfillment depends on the quality of lower-level acts - laws and subordinate regulations. The right to education obeys the same logic: a right proclaimed in the Constitution remains declarative in nature if no corresponding practical mechanism is established for it.

The relevance of this thesis lies in the fact that, at the higher education level, unlike at other levels (school or vocational education), the right to education becomes more complex due to additional, specific conditions - competitive admission, the contract or grant-based system, and requirements of academic performance. This necessitates a separate analysis of how the constitutional right is realized specifically at the higher education stage. The research relies on the formal-legal and systemic-legal methods, as well as on foreign constitutional-legal doctrine concerning the right to education.

Main part. Before analyzing the practical fulfillment of constitutional rights, it is useful to apply the concept of the "normative pyramid," widely

recognized in legal theory: the Constitution, at the apex of the pyramid, establishes the most general provision; laws concretize it by sector; subordinate acts then create the practical mechanism of implementation. At each level of this pyramid, the practical force of the norm diminishes if the lower levels fail to fully and consistently elaborate the provision established at the higher level. From this perspective, assessing the practical fulfillment of the right to education at the higher education stage requires a combined analysis of all layers of this pyramid.

In the new edition of the Constitution, the right to education and related norms are reflected in several articles. While the state's general guarantee to ensure the development of a continuous education system, in all its various forms and types, is established, a separate constitutional status is granted to the right of higher education institutions to academic freedom and self-governance. A combined analysis of these two norms leads to an important theoretical conclusion: although the state has assumed the obligation to ensure the right to education, it fulfills this obligation not directly, but through autonomous higher education institutions. Consequently, a student's constitutional right is realized primarily through a legal relationship with the institution, rather than directly with the state.

It should be particularly noted that granting academic freedom constitutional status is not accidental - in accordance with an approach widely adopted in global constitutional practice, this is necessary to protect higher education institutions from the state's direct interference in educational content. However, this protective instrument simultaneously creates an additional legal complexity for the student: the student is obliged to defend their rights not against the state, but against a relatively autonomous subject - a situation that differs from the classic "citizen-state" model of legal relations.

This theoretical conclusion gives rise to a practical problem: if an institution, relying on its autonomy, organizes unsatisfactory conditions for a student's independent study, the distribution of liability between the state (the constitutional guarantor) and the institution (the practical implementer) is not clearly defined. If a student's right is violated, it remains unclear under current legislation whether the student should turn to the institution alone, or whether protection may also be sought through a state oversight body.

It is worth tracing the chain of concretization of the constitutional right: the Constitution proclaims the general right to education; the Law "On Education" divides this right by type and level; the Regulation on Higher Education then establishes the concrete mechanisms applicable at the higher education level (admission procedure, credit system, list of student rights). At each stage, the

abstractness of the norm decreases while its concreteness increases - this is, in general, the normal functioning of a legal system. The problem, however, is that certain important aspects - such as the precise procedural mechanism for demanding educational quality - remain insufficiently concretized at any of these stages.

To deepen the understanding of the content of the right to education, it is useful to distinguish its constituent elements separately. According to the widely recognized "4-A" framework in international education-law doctrine (availability, accessibility, acceptability, adaptability), the right to education encompasses not merely the existence of educational institutions, but also equal access to them, the acceptable quality of education provided, and its capacity to adapt to diverse needs. Analyzing the Constitution of Uzbekistan and the legislation based upon it through these four criteria reveals that the elements of "availability" and "accessibility" are relatively well developed (the expansion of the network of higher education institutions, the increase in admission quotas), whereas the elements of "acceptability" and "adaptability" remain less developed in legal terms - and these are precisely the elements directly relevant to the quality of independent study and its adaptation to individual needs.

An important criterion for assessing the practical fulfillment of a constitutional right is its justiciability - that is, whether a student, in the event of a rights violation, may directly apply to a court or an equivalent body. The analysis shows that the direct judicial protection of the right to education is rarely practiced in Uzbekistan - such disputes are typically resolved through administrative (internal institutional) channels or departmental mechanisms, such as the State Inspectorate for Education Oversight. This is not inherently negative, since prompt administrative protection is often more effective; however, if administrative protection fails to yield results, the student's right to ultimate judicial protection, free of procedural obstacles, is a necessary condition for the completeness of the constitutional guarantee.

Another important aspect concerns the relationship between state educational standards and the constitutional right. The state educational standard, on one hand, serves as an instrument guaranteeing the quality of education, while on the other, it constitutes a factor limiting the academic freedom of higher education institutions. To answer the question of whether providing education of a quality below the standard constitutes a violation of a student's constitutional right, a legal definition of the concept of "minimum educational quality" must be developed - a concept which currently has pedagogical, but not legal, content.

Conclusion. The analysis leads to the following conclusions: first, at the higher education stage, the constitutional right to education is realized through a relationship with an autonomous institution rather than directly with the state, which requires a clear delineation of liability between the state and the institution; second, in the chain of concretization from the constitutional norm down to subordinate acts, certain important rights (the right to demand quality) remain insufficiently developed; third, the "negative" dimension of the right to education - the mechanism protecting students from unjustified restrictions imposed by institutions - requires separate normative development; fourth, the possibility of direct judicial protection of the right to education (the justiciability criterion) should be procedurally expanded; fifth, providing a legal definition of "minimum educational quality" is necessary to clarify the relationship between the state educational standard and the constitutional right.

As a practical recommendation, it is proposed that the Law "On Education" be supplemented with a separate chapter establishing the procedure for implementing the constitutionally guaranteed quality requirements that students may demand from institutions, as well as the procedural mechanism for recourse to the courts in the event such requirements are violated. In conclusion, it should be emphasized that the strength of a constitutional right lies not in its text, but in the robustness of the institutional mechanisms that implement it. The insufficient development of these mechanisms in the field of higher education reflects a natural stage in the ongoing process of building a state governed by the rule of law - one that must be addressed gradually, yet consistently.

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