

# “Factors influencing the legal regulation and management of education system in Kazakhstan: a review and analysis”

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# FACTORS INFLUENCING THE LEGAL REGULATION AND MANAGEMENT OF EDUCATION SYSTEM IN KAZAKHSTAN: A REVIEW AND ANALYSIS

## Abstract

Nowadays, the modernization of the education system is the basis of dynamic sustainable economic development and citizens' well-being. The key agent for the implementation of educational policy and the developer of the legal framework governing the functioning of the educational sphere is the state and its bodies. The Kazakhstani state policy's main priorities in the field of education are formulated in several strategic documents. Using the review approach, this article examines the current state of public policy and legal regulation in Kazakhstan's education sector. The article analyzes key documents that define the contours and content of the main directions of public policy and legal regulation. This article attempts to identify, review, and analyze the legal characteristics of the key process and factors existing in the legal field of Kazakhstani education, such as "Bologna factor," "soviet legacy," "provision of quality," etc. The article concludes that the existing legal tools do not fully comply with law enforcement practice. The interpretations of some legal acts are somewhat different, which causes difficulties for actors providing educational services. Based on the result of the analysis, the article provides the main recommendations for improving legislation in education.

## Keywords

education, public policy, development, legislation,  
institutions, Kazakhstan

## JEL Classification

K10, K20

## INTRODUCTION

In June 2018, an international economic forum "Future of Innovations and Policy" took place in Nursultan city (Kazakhstan), where Kazakhstani education was considered as a key element of the country's economic modernization. The emphasis on enhancing the competitiveness of national education is a logical consequence of integrating the economy, education, and science that have been actively discussed in recent years. The implementation of these modernization processes presupposes the creation of legal preconditions in the legislation in education. The Kazakhstani state policy's main priorities in education are formulated in several strategic documents, among them, the Concept of long-term socio-economic development of Kazakhstan for the period up to 2050 (also known as "Kazakhstan 2050"). The Concept "Kazakhstan 2050" considers the education system as a special driver to the engine of systemic changes in the economy and society (Suleimenov, Guichard, Baikenov, Obukhova, & Suleimenova, 2015). Simultaneously, as the basic goal of the state educational policy, there is an increase in the availability of quality education that meets the requirements of innovative economic development, the modern needs of society (Nabi, Zhaxylykova, Kenbaeva, Tolbayev, & Bekbaeva,

2016). In terms of specific activities proposed for implementation within the framework of this Concept, it is worth highlighting: 1) updating organizational and economic mechanisms at all levels of the education system; 2) increasing the flexibility and variety of forms of educational services; 3) the transition to individualization and orientation to practical skills and fundamental skills in general education; 4) expanding the participation of employers at all stages of the educational process in vocational education; 5) the involvement of students and teachers in basic and applied research; 6) the creation of a continuous education system based on the introduction of national qualifications framework, qualification certification system, and modular programs; 7) ensuring equal conditions of access for state and non-state organizations providing high-quality educational services to educational infrastructure and state and municipal financing; 8) the formation of mechanisms for assessing the quality and relevance of educational services with the participation of consumers. The Concept states that public education policy is the guiding and regulating activity of the state, carried out to effectively use the educational opportunities to achieve well-defined strategic goals and solve tasks of national or global importance. It is implemented through laws, national programs, government regulations, international programs, treaties, and other acts, as well as by involving public organizations and movements, the general public to support it with the means at their disposal (mass media, public academies, professional associations, etc.). However, such a legal framework has faced several challenges (Gurevich, 2011).

## 1. LITERATURE REVIEW

The study of the Bologna process as a complex social phenomenon that determines the transformation of higher education systems in the conditions of the emergence of a society based on knowledge is the subject area of the sociology of education, culture, and spiritual life. However, at the moment, there are no fundamental works on the modernization of higher education, although, in the periodical literature, this topic is now beginning to acquire certain popularity. Since the work deals with the sphere of higher education in Kazakhstan, the researchers of this issue are mainly representatives of the Kazakhstani academic community (e.g., Fierman, 2006; Heyneman, 2007; Asanova, 2006; Johnson, 2008; Gurevich, 2011; Burkhalter & Shegebayev, 2012; Hartley, Gopaul, Sagintayeva, & Apergenova, 2016). These studies note the high social significance of the integration process in higher education; however, there are practically no studies that would study the basic positions of the Bologna process concerning their influence on the development of legal regulation of higher education in Kazakhstan, reforming other institutions of civil society and the state. In many works, reforming Kazakhstani higher education is viewed only as a consequence of the political and socio-economic transformations that have taken place in Kazakhstan over the past decade (Jumakulov & Ashirbekov, 2016). However, it is important to consider the fact that the reform coin-

cidied in time with an international sharp increase in innovation processes in higher education. The accelerated development of new knowledge and technologies, the reduction of state subsidies for education, and the increased hopes of the population to improve the well-being based on obtaining higher education pose new problems and tasks for universities worldwide. Also, modern researchers note that the fulfillment of the Bologna process's conditions is beneficial to any country (Kissane, 2005). If Kazakhstan did not join the Bologna process, the consequences would be palpable for the individuals, universities, and the country as a whole. Under the preamble of the Kazakhstani Law "On Education", education is a purposeful learning process in the interests, first of all, of the individual, society, and the state. To reduce the departure of specialists abroad, it is necessary to create incentives within Kazakhstan. Universities would have lost a lot if the country had not been among the countries that have already adopted the Bologna Declaration. Kazakhstani universities would lose foreign students, and the country's young population would seek to obtain paid education at foreign universities by distance methods.

More and more attention in the publications of Kazakhstan is paid to the international activities of universities (e.g., Kukeyeva, Delovarova, Ormysheva, & Davar, 2014; Maudarbekova & Kashkinbayeva, 2014; Kurmanov, Yeleussov, Aliyev, & Tolysbayev, 2015; Neave & Amaral,

2008; Ohanyan, 2011; Soltys, 2015; Bischof, 2018; Huisman, 2019; Rostiashvili, 2011; Nessipbayeva & Dalayeva, 2013), along with the study of the export of educational services (Maudarbekova, Mizikaci, & Dyusembinova, 2015). However, despite the increasing number of materials on the Bologna Process, there is currently no comprehensive analysis of the dynamics of constructing a common educational space according to Bologna principles, taking into account the latest changes in its development. The different sides of the “bolognaization” of universities, highlighted in publications, do not provide a holistic view of the transformations of national higher education systems, due to their participation in forming a single zone of education. In general, national and international studies concerning the modernization of education under Bologna process, several directions are distinguished: the problem of preserving national and cultural identity (Neave & Amaral, 2008; Obukhova, Guichard, Baikenov, & Suleimenov, 2015); the concept of modernization in line with the global education processes (Ohanyan, 2011; Soltys, 2015; Nabi et al., 2016). Specifically on the topic of higher education, one can single out the main areas that researchers classify as ‘globalizing’: equal international cooperation in higher education at the state and university levels (Oralova, 2012); development and dissemination of technologies as the basis for education and building a future society (Pak, 2010). This also includes introducing virtual and distance education (Piven & Pak, 2006); an idea of the expansion of Western educational values (Rumyantseva & Cabonib, 2012; Bischof, 2018; Huisman, 2019). The most controversial and controversial issue is devoted to developing engineering education in the context of the Bologna transformations (Stetar & Kurakbayev, 2010). Considerable interest among scientists is aroused by considering methods of introducing the credit rating system (Rostiashvili, 2011; Nessipbayeva & Dalayeva, 2013; Suleimenov et al., 2015). In light of the study of the problems of the Bologna process, two directions of its assessment are clearly distinguished from a negative understanding of this process, inclined towards westernization (Tampayeva, 2015), to the idea of it as the most effective way of achieving the quality and competitiveness of national higher education (Yakavets, 2014).

Besides, many researchers note an insufficient level of research into higher education issues in Kazakhstan as civil and public socio-economic justice drivers. Public education began with the empowerment of individuals within states, moving from their traditional limited definition as subject (traditionally of the crown, and latterly of the state), with a passive role in their community, toward being active members of their communities. Fierman (2006) argued that traditional passive citizenship did not play an important role beyond holding a passport. Citizens of the country are educated in citizenship rights and responsibilities (Fierman, 2006; Bray & Borevskaya, 2001). The education system in Kazakhstan is based on concept of citizens in doing the project that calls for equipping citizens with skills and knowledge to obtain civic, economic, and social rights to face the challenges of a new future with reduced welfare state and restricted role for the state, empowering individuals to maintain their welfare as successful citizens, developing communities and overcoming inequality (Bailey et al., 2009; Konstantinovskiy, 2012). Public education was introduced in Kazakhstan as a national policy (Zajda, 2003; Johnson, 2008). Modern reality allowed a large degree of cultural freedoms and autonomy to numerous groups, including migrant communities and religious minorities. However, with the collapse of a compelling national vision upon which the political and economic (and ethnic) elite depended, there was a clear underlying fragmentation of the national society that gave credence to those who had long been calling for an end to multiculturalism (Smirnova, Sokolov, & Emmanuel, 1995). However, the subsequent public education curriculum revealed the fears that precipitated it, emphasizing citizens of transnational identities (others) described in the framework in terms of their homeland, with ethnic and religious minorities included as anthropological curiosities to be coached in the citizenry and implicitly superior modern culture. As Korostelina (2010) argued, social policy should treat social problems as social constructions that are created and maintained through individuals’ and groups’ expressions of claims about social reality and others’ subsequent responses. Gerber and Schaefer (2004) pointed out that policies should be driven from street-level bureaucrats (the beneficiaries or clients) and implementers to solve any unpredicted issues that can

arise during implementation.

Furthermore, the heterogeneous subject of regulation of legislation in education, due to the specifics of educational relations, gives rise to the presence of administrative, civil, labor, financial and other branches of legislation within the framework of educational legislation. Such a pronounced specificity of the subject, which is intended to regulate the educational branch of law, was noticed even in Soviet legal science (Asanova, 2006). This has led to the understanding of educational legislation as complex. Given the foregoing, the establishment of complex nature of institutions increases its mobility since the circle of institutions of educational legislation is not stable, for example, the lack of a clear identity of certain types of education, including environmental education, sports training, military training, and education in the field of culture and art. This leads to the emergence of integrated institutions in educational, environmental, military legislation, and legislation in sports and culture (Stetar & Kurakbayev, 2010). This makes it necessary to reflect the specifics of these types of education in the framework of legislation in education. Questions about which institutions can be built into the educational legislation system, whether it is advisable to include them in the structure of an educational legal act, how much they can be modified in it, are relevant.

Simultaneously, the general pattern of development of relations between education legislation and related industries can be shown by the example of civil legislation, in which the exclusive sphere of legal regulation remains insignificant and the block system of legal regulation prevailing in English-American law prevails. The vast majority of property relations regulated by civil law are already in the sphere of complex legal regulation under the influence of public law. However, the contradictory nature of the educational standards and the norms of civil, tax, budget, labor, and other branches of the legislation raises the question of the priority of a particular industry in regulating educational legal relations (Yakavets, 2014). The jurisprudence demonstrates examples when the norms of civil, administrative, tax, and other branches of law are applied without considering the specifics of educational legal relations, which leads to an infringement of the rights of partici-

pants in these legal relations and to restrain the development of the education sector (Tampayeva, 2015). However, this does not solve the problem of correlation in legal regulation of the sphere of education of norms of various branches of legislation. In the absence of the necessary norm in the legislation on education, the rule on applying the corresponding norm of another industry under the whitespace nature of legislative regulation can lead to irreparable consequences for the education system.

Finally, the question of prospects for higher education after Kazakhstan acceded to the World Trade Organization (WTO) and, in principle, the influence of market mechanisms on this area received the least attention in the scientific literature. Simultaneously, this process is recognized as multidimensional. It is considered from the point of view of 1) strengthening the market component in the field of higher education, the result of which is the General Agreement on Trade in Services (Zhetpisbayeva, Arinova, & Shunkeyeva, 2012); 2) posing the problem of preserving higher education as a social institution of the function of upbringing and transferring the cultural and historical heritage (Utyupova, Baiseitova, & Mukhamadiyeva, 2016); taking into account the increasing influence of market conditions on the sphere of higher education, the question arises of understanding the essence of education from the point of view of it as a product and service (Obukhova et al., 2015) or, as on an indisputable benefit, despite any changes in its structure (Gurevich, 2011); determination of the increased influence of the market and the WTO as definitely detrimental to higher education in Kazakhstan (Burkhalter & Shegebayev, 2012). Besides, based on the realities of higher educational institutions in a market structure, a special direction of modernization of education began to be identified, defined as the economization (marketization) of higher education (Kurmanov et al., 2015). Despite the vast amount of studies on the issue of Kazakhstani national education under the Bologna process, the modernization and legislation of higher education are quite poorly studied due to a large number of its constituent directions and aspects, especially in the direction of problems and contradictions in the implementation of the main trends in higher education in terms of the formation of an information society

in Kazakhstan and its entry into the WTO. This was the reason for choosing this topic of the current article.

## 2. GENERALIZATION OF MAIN STATEMENTS

Determining the meaningful characteristics of the quality of education is essential in the light of the obligations arising from the contract in connection with the lack of services rendered. The quality of education is a multidimensional category manifested in international law and is the subject of research in pedagogy, sociology, philosophy, and jurisprudence (Heyneman, 2007). The above gives grounds for concluding that it is impossible to apply only those criteria that can be clothed in the form of law. The use of other categorical constructions will not allow using the legislative mechanism for their assessment or will require expanding the boundaries of subjective discretion (Kalyuzhnova & Kambhampati, 2007; Karatayev & Hall, 2020). In the latter case, the entities conducting the assessment must meet maximum impartiality criteria in resolving the relevant issue. The problem arose of creating independent national bodies, which is an indispensable condition for adopting the state as a full member of the European Association for Quality Assurance in Higher Education (ENQA). The legislator proceeds from the expediency of two procedural guarantees of the quality of the educational process: licensing and accreditation (Utyupova et al., 2016). However, the mechanism of interconnection between these institutions is extremely fragmented and inconsistent, which creates additional administrative barriers for educational organizations' activities and the implementation of socially oriented measures in the field of education (Burkhalter & Shegebayev, 2012). On the way to achieving the goal of quality education, technical and legal norms are beginning to take on value. Due to the increasing complexity of the learning process and modern technologies, the need to match the level of knowledge taught in the educational institution with society's achievements. This will be especially pronounced with the development of distance education and nanotechnology.

The interconnection of technical and legal norms with procedural norms that guarantee citizens' rights in the implementation of certain procedures

within the framework of education is expected to be seen in the future, as the process of knowledge transfer is becoming more and more technological (Pak, 2010). Establishment of forms and procedures for evaluating and confirming compliance with technical and legal standards is required. It should be noted that the standardization of educational services should not create unnecessary administrative barriers to educational activities. An increase in the number of requirements and functions to be observed and fulfilled by an educational institution entails a focus on fulfilling tasks that are unusual for the very essence of education. It is necessary to pay attention to the importance of ensuring the quality of education on the part of students. The learning process is two-sided; hence, the requirements for observing the educational standard in the form of the necessary efforts to acquire knowledge, skills are mandatory for students. However, the training process is purely creative and is not subject to regulation.

## 3. DISCUSSION

### 3.1. Key features

The educational level of Kazakhstan's population is relatively high and is close to the average level of OECD member countries. Among adults aged 25 and over, about 40% have secondary education, 30% have a college diploma, and 25% have a higher education. According to the data from the Ministry of Education, in the 2019–2020 academic year, the contingent of universities in Kazakhstan amounted to 534,421 students, including 496,209 undergraduate programs, 34,609 postgraduate students (humanitarian direction – 19,431, technical direction – 15,178), Ph.D. doctoral studies – 3,603 (Table 1). In a regional comparison, the largest number of students is in Almaty, the South Kazakhstan region, and the city of Astana, the lowest rates are in the Mangystau and North Kazakhstan regions (Table 2). The student contingent's high rates are explained by the prevalence of a greater number of young people and the number of universities in these regions. A slight decrease in students' contingent in comparison with the 2017–2018 academic year was recorded in Almaty (–90) and Kyzylorda regions (–97). In terms of the university contingent's age structure, there is a

**Table 1.** Number of undergraduate and postgraduate students

| Academic rank    | Academic year |           |           |           |           |
|------------------|---------------|-----------|-----------|-----------|-----------|
|                  | 2015–2016     | 2016–2017 | 2017–2018 | 2018–2019 | 2019–2020 |
| Bachelor degree  | 477,387       | 459,369   | 477,074   | 496,209   | 479,914   |
| Master degree    | 32,527        | 29,882    | 32,893    | 34,609    | 36,720    |
| Doctorate degree | 2,063         | 2,288     | 2,710     | 3,603     | 4,937     |
| Total            | 511,977       | 491,539   | 512,677   | 534,421   | 521,571   |

**Table 2.** Regional dynamics of students

| Provinces           | Number of HEIs | Academic year |           |           |
|---------------------|----------------|---------------|-----------|-----------|
|                     |                | 2017–2018     | 2018–2019 | 2019–2020 |
| Akmola              | 4              | 9,267         | 8,455     | 9,441     |
| Aktobe              | 6              | 20,336        | 21,004    | 21,829    |
| Almatinsk           | 3              | 9,051         | 9,422     | 9,342     |
| Atyrau              | 3              | 10,014        | 11,012    | 12,046    |
| Eastern Kazakhstan  | 7              | 26,842        | 27,969    | 29,334    |
| Zhambyl             | 3              | 18,950        | 19,662    | 20,874    |
| Western Kazakhstan  | 4              | 26,963        | 29,919    | 31,392    |
| Karaganda           | 9              | 36,976        | 41,738    | 42,629    |
| Kostanay            | 7              | 19,014        | 20,057    | 20,534    |
| Kyzylorda           | 3              | 10,055        | 10,070    | 9,973     |
| Mangistau           | 2              | 3,976         | 5,081     | 5,167     |
| Pavlodar            | 4              | 12,703        | 13,566    | 14,537    |
| Northern Kazakhstan | 2              | 4,560         | 5,235     | 6,027     |
| Southern Kazakhstan | 12             | 70,827        | 71,323    | 79,423    |
| Astana              | 17             | 51,235        | 51,800    | 52,369    |
| Almaty              | 44             | 128,707       | 130,761   | 131,292   |
| Total               | 130            | 512,677       | 534,421   | 521,571   |

high quantitative indicator of students in the 18-21 age group. There is a significant increase in the number of students in the 25-29 age group (+5,531).

The fundamental difference between Kazakhstani legislation on education and the legislative sources of educational law of Western states is that the object of legal regulation in Kazakhstani laws on education is not educational relations, which enter into the process of training and education of students and educational institutions, teachers at various levels of the national educational system how much relationship is education management and its economy (Kissane, 2005). Furthermore, in educational legislation, procedural forms are not developed. The problem of regulating various procedures in education is not well understood, and the current legislation in this area is replete with subordinate regulatory legal acts and departmental acts that regulate the implementation of certain procedures (Lee & Tai, 2008). In fact, many issues directly related to the exercise of civil rights to education remain outside the scope of the law, while they should,

first of all, be the subject of regulation of the law (procedural issues of the final certification of graduates, appeal, the ratio of benefits and advantages for admission to secondary vocational and higher professional educational institutions and the results of a single state exam). It should be noted that legislative acts create the basis for local rulemaking; therefore, the realization of the subjective rights of citizens through not departmental acts, but laws, based on which acts of a local level can be adopted, are of particular importance (Maudarbekova & Kashkinbayeva, 2014). Thus, judicial protection of educational rights is also difficult.

Another important feature of Kazakhstani legislation on education is strong imperative principles in education management and education quality control, including indirect methods of influence (provision of state support upon state accreditation). Moreover, the concentration of legislative regulation falls on the level of higher professional education, while practice shows extremely unsatisfactory results of the national exam (Yergebekov

& Temirbekova, 2012). However, the strengthening of administrative and legal frameworks leads to an increase in the volume of functions of executive authorities in the field of education, which is not always consistent with the functional ability of state bodies, the availability of necessary tools, which is especially acute for licensing and accreditation (Maudarbekova et al., 2015). Simultaneously, the complexity of the activity, the introduction of a multifactor system of ratings, will not allow putting the proposed mechanism in practice. The prevalence of these forms of legal regulation regarding the quality of education leads to ambiguity, which is the basis for recognizing education as having poor quality (Hartley et al., 2016). What actions should an educational institution take to restore a violated right, what actions of citizens and documents should become a justification for causing damage in the form of poor-quality education? The answers to these questions can set in motion a mechanism for judicial protection of the right to quality education.

In Kazakhstan, the regulatory potential of acts at the local level is not used fully. The degree of concretization of regulatory legal acts' provisions is not always sufficient to ensure that their provisions are distinguished by clarity and clarity of application (Karatayev, Hall, Kalyuzhnova, & Clarke, 2016). There is uncertainty about the participation in the educational institution's management of the general meeting of the collective, the pedagogical council, the council of the educational institution, and the board of trustees (Piven & Pak, 2006). The foregoing is due to the unresolved issue of the interaction of laws, by-laws, and local acts in education. The implementation of legal and regulatory requirements of both legislative and local acts in education is carried out in the process and through the lens of the interaction of participants in educational legal relations for training and education, where the teacher as a subject of teaching occupies a special place. Since the process of training and education is inherently a psychological and pedagogical process, where the implementation of the same normative establishment can have different variations, the process of formation of a behavioral attitude (including based on legal consciousness) is of particular importance, namely the method of legal influence on the specified process (Rumyantseva & Cabonib, 2012). In this regard, the need for regulatory and intellectual support of the legally guaran-

teed right to education is of particular importance.

### 3.2. Bologna factor

The factor associated with the education system's reform is Kazakhstan's transition under the Bologna agreement to a three-tier higher education system, including bachelor, master, and Ph.D. The above is a clear example of the impact of international law on national law. The reform confirms the possibility of using the usual norms (recommendation law) of international law in regulating legal relations in the educational sphere. The global market forms a new system of values (a single educational space to create a single labor market). Thus, international law initiates unification of legislation on education and, thus, forms national legislation (Kurmanov et al., 2015). However, the problem of the interaction of norms of international and national legislation is relevant at the level of law enforcement. Kazakhstan has agreements on international cooperation in education with several countries; however, when deciding to confirm the required level of education or establish equivalence of educational levels, their potential is ignored. This circumstance is explained by the fact that these agreements' provisions are general, whereas, to be directly applicable, they must have the necessary level of specification (Kerimbayev et al., 2016). This level is associated with the ability to generate rights and obligations for individuals and legal entities. Simultaneously, their incorporation does not always achieve the norm's goal, since the application of such norms becomes impossible if it is necessary to implement them. Acts of national law have been enacted to enforce the rule, but the presence of declarative provisions on international cooperation in the field of education in domestic legislation is not enough (Oralova, 2012). It should be noted that there is a multidirectional nature of agreements concluded at the interstate level regarding the establishment of equivalence of diplomas of doctors of science, certificates of professors, which does not contribute to the unification of legislation in education.

### 3.3. Soviet legacy

Legislation in education is distinguished by the breadth of its meaning, which is explained in the historical traditions of the formation of the in-

dustry in question. In Soviet times, the existing approach to regulating public relations in education was based on administrative and legal foundations, although the researchers established the specificity of educational relations back in the 1970s (Zhetpisbayeva et al., 2012). Consequently, the Soviet fundamentals of legislation on public education at the beginning of the 1990s no longer meet the time's realities. Meanwhile, the development of the new Law "On Education" took time, and the way out of this situation was the adoption of Temporary regulations governing the activities of institutions (organization of the education system) and training in Kazakhstan. Thus, the generally accepted sequence of preparing normative legal acts was violated. Subsequently, to comply with the level of development of social relations and given the need to fill in the gaps in legal regulation, the volume of by-laws has increased (Obukhova et al., 2015). The rationale for making amendments to law is argued in favor of the need to bring its standards in line with the norms of acts of the sub-legislative level. The intensity of subordinate rulemaking has an opposite effect on the national level of regulation of laws. Thus, most of the procedures related to the exercise of citizens' rights to education are within the scope of precisely the by-law rulemaking. Simultaneously, such a method of systematization of legislation as incorporation remains unclaimed, in which regulations governing public relations in the field of education are combined in a collection together with the elimination of outdated, conflicting provisions.

### 3.4. Boundaries of legal regulation

Emphasizing the dynamism of legislation in education, it is worth noting that its transformation to a certain extent is the result of the mobility of the boundaries of legal regulation in the field of education, which at the present stage is increasingly subject to expansion. The scope of legislation also changes depending on the dynamics of the conditions of public life. Therefore, tutoring in Soviet times was considered as entrepreneurial activity and was proscribed by law. Today, individual labor pedagogical activity does not require licensing, but it is recognized as entrepreneurial in the event of income and is subject to registration under Kazakhstan's legislation (Jumakulov & Ashirbekov, 2016). However,

borders of legal regulation can be determined by the following: state abilities; purpose and objectives; the social nature of the phenomenon, entailing for a lot of members of society a whole series of mutual rights and obligations; proportionality of the achieved goal and spent funds; the presence of obstacles so strong for a person that he cannot overcome them with his forces, and meanwhile, the conditions for his development require the removal of these obstacles. One should consider the inappropriateness of the legal regulator's action if a person individually on their own or collectively (for example, using local acts) can resolve these obstacles. The boundaries of legal regulation are expressed in a change in the form and scope of educational legislation sources, which is determined by the search for the measure of the most successful correlation of aspects of centralization and decentralization in the management of education.

In foreign practice, there are two approaches to the boundaries of legislative regulation of the education sector. The first approach in the laws regulates only what is necessary, everything else is concentrated in the hands of the schools themselves, responsibility for most of the cases is transferred to the lower level (e.g., Belgium, the Netherlands, Denmark, Great Britain, Ireland). Another approach is characterized in the strict policy of state codification of the norms of the public sphere (e.g., France). In Kazakhstani legislation, the approach to legislative regulation of education is expressed by the following trends: 1) education refers to those areas of public life in which public-law and private-law borders are erased; 2) the private law sphere remains narrower than public law in the part that defines the role of the state in creating the strategy and objectives of the education system, the content of education, and education management; 3) in the legislation, private law foundations begin to prevail (Kukeyeva et al., 2014). Therefore, there is an increase in the role of contractual mechanisms of legal regulation related both directly to the provision of educational services and educational activities in general. At the same time, the transition to such a regime of legal regulation, when private law mechanisms prevail, raises the question of the role and extent of centralized legislative regulation in the field of ensuring the quality of education and its assessment. The ratio of public law and private law principles is significant in the light of the regulation of relations arising from paid educational services.

## CONCLUSION

In the practice of implementing the law and the method of legal regulation in Kazakhstan, there are two trends: 1) appeal to legal acts in the field of civil law, tax, budgetary relations in terms of business and other income-generating activities of an educational institution; 2) non-application of civil law in the provision of educational services. In the first case, the establishment of civil legislation is specified in the framework of educational legislation that defines the limits for the application of the norms of the related industry legislation in the field of education, the norms of the functional codes in the field of budget and tax relations have priority and carry out exclusive legal regulation in the relevant field. In the second case, there is no mechanism for applying the norm within the framework of educational legislation, since in this case, an invasion of the field of moral regulators is required; therefore, legal regulation is carried out only in the form of norm-principles, norm-declarations, etc. In virtue of what said in practice, the absence of objective expressed criteria, which could be guided by, does not implement regulatory provisions of civil law regarding obligations. For example, the introduction of distance education forms raises the question of the legal status of educational complexes arising on this basis, including points that focus on electronic learning resources and provide students with access to them.

Based on the result of the analysis, the following main recommendations for improving legislation in education are proposed. Taking responsibility in the field of education, Kazakhstan emphasizes its special social value. The main objectives of the legislation are to build human rights mechanism, ensure that the interests of the student, teacher, and educational organization coincide with a continuing trend towards increased attention to managerial processes in education and the development of material and procedural guarantees of the rights of participants in the educational process. In connection with the objectively complicated structure of the education system and the increasing influence of civil law principles, primarily expressed in the desire to highlight the specific result of the educational process, which would allow us to mainly assess the quality of graduate training, it is extremely important to assess the legal and overall social consequences of innovations introduced to prevent harm to the participants in the educational process and the educational system as a whole. Furthermore, the development of legislation should ensure the comprehensive nature of its development, based on the inclusion in institutions that gravitate towards the norms of educational legislation and do not have a clear industry affiliation, giving them an educational specificity.

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