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Current issues of modern higher education: International-legal experience

Актуальні питання сучасної вищої освіти: міжнародно-правовий досвід

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Written by:

Liliia Riabovol¹ <https://orcid.org/0000-0003-3558-2103>**Yana Tytska²** <https://orcid.org/0000-0001-5777-8225>

Abstract

New realities pose challenges to higher education institutions and force them to choose consumer demand. Such a situation encourages higher education institutions to constantly improve the educational services provided and increase their level of competitiveness, and therefore take into account foreign experience. With this in mind, it is significant to analyze the international legal experience of reforming higher education, as well as current issues of modern higher education. The purpose of the work is to characterize the current state of higher education in foreign countries and to identify key trends and problematic issues in this field. The research methodology includes such methods as the induction method, the deduction method, the comparative method, the system method, the relativistic method, and the axiological method. As a conclusion of the conducted research, the tasks and main problematic aspects of the regulation of higher education are defined. The state and aspects of state regulation of the activities of higher education institutions of the leading countries of the world, in particular in the USA, Great Britain, Finland, Denmark, Germany, and other countries, were studied. Problematic issues of regulation of higher education are singled out, in particular the issue of decentralization, in particular, attention is paid to the role of scientific research and financial support of the own research base of higher education institutions. As a result, the key areas that can be used to transform the higher education system of Ukraine and implement better foreign experiences have been determined.

Keywords: higher education, higher educational institution, foreign experience, reformation.

Анотація

Нові реалії ставлять виклики перед вищими навчальними закладами та вимушують виборювати споживчий попит. Така ситуація спонукає заклади вищої освіти до постійного вдосконалення освітніх послуг, що надаються, і підвищувати свій рівень конкурентоспроможності, а тому враховувати зарубіжний досвід. З огляду на це, важливо проаналізувати міжнародно-правовий досвід реформування вищої освіти, а також актуальні питання сучасної вищої освіти. Метою роботи є характеристика сучасного стану вищої освіти у зарубіжних країнах, визначення ключових тенденцій та проблемних питань у даній сфері. Методологією дослідження є такі методи як метод індукції, метод дедукції, порівняльний метод, системний метод, метод релятивізму та аксіологічний метод. Як висновок проведеного дослідження, визначено завдання та основні проблемні аспекти регулювання вищої освіти. Досліджено стан та аспекти державного регулювання діяльності закладів вищої освіти провідних країн світу, зокрема у США, Великобританії, Фінляндії, Данії, Німеччині та інших країнах. Виокремлено проблемні питання регулювання вищої освіти, зокрема питання децентралізації, зокрема звернено увагу на роль наукових досліджень та фінансової підтримки власної дослідницької бази закладів вищої освіти. В результаті визначені ключові напрями, які можуть бути використані для трансформування системи вищої освіти України та впровадження кращого іноземного досвіду.

Ключові слова: вища освіта, вищий навчальний заклад, іноземний досвід, реформування.

¹ Doctor of Pedagogical Sciences, professor, Professor of the Department of Law and Law Enforcement, Volodymyr Vynnychenko Central Ukrainian State University, Kropivnickij, Ukraine.

² PhD in Law, Dean of the Faculty of Law and Economics of the International Humanitarian University (Odesa, Ukraine).

Introduction

In today's conditions, Ukraine is entering the European and world educational spaces, the higher education system is being reformed based on flexibility and variability, mobility, ensuring employment and competitiveness of specialists with higher education, improving the quality of pedagogical, methodical and research work in higher education institutions. Significant competition in the market of educational services and the desire of Ukraine to become an equal partner in this direction prompts the search for an effective model of higher education, taking into account prospective trends in improving the national educational systems of developed countries and problematic issues in this context, as well as understanding how progressive countries in the field education has reached such high quality.

For higher education to become attractive for investment, we consider it necessary to ensure the efficiency of higher education institutions, transparency of funding, independent assessment of the quality of knowledge and demand for higher education institutions, and their ratings.

As practice shows, the economic success of highly developed countries is achieved due to the development of education and scientific research. However, higher education needs proper support, acceptance and funding. Foreign experience in reforming and developing higher education systems in advanced countries of the world can be useful for Ukraine, which needs to reform the education system and build an innovative economy. However, for this it is necessary to determine the actual issues of higher education and the ways of their clarification.

The tasks of this study are:

- 1) Analyze the international legal experience of the functioning of higher education systems;
- 2) Investigate problematic issues regarding the management of higher education institutions in the world;
- 3) Summarize the features of international systems of higher education and understand which tools should be introduced in Ukraine.

The object of the study is international legal experience in the field of higher education, as well as problematic issues faced by different countries in this field. The subject of the study is social relations that arise, change, and cease during the organization, management, and

provision of educational services by institutions of higher education in Ukraine and abroad.

Theoretical Framework or Literature Review

Innovations in higher education abroad became the object of research by Artyomova, Studeniak, Golovach, and Gus (2015). The research reveals the conceptual aspects of the formation of a single European educational space, highlights the features of the innovation policy of the Visegrad Four countries, and the implementation of educational innovations in higher educational institutions of the countries of the world and Ukraine.

Further, Babichev (2017) analyzed foreign experience in matters of change management in the higher education system. The author concluded that from the analysis of the state management of education in foreign countries, it is possible to single out some points that can be used in the process of formation and implementation of the state policy in the field of education in Ukraine, namely: the desire to provide equal opportunities for education to all citizens; orientation of education on the comprehensive development of personality, the autonomy of educational institutions; quick response to the needs of time and society; versatile financial support for the development of education.

Moreover, Bataeva (2020) analyzed the international experience in the field of higher education institutions. The author drew attention to the publishing activity of scientists and noted that the publishing activity of scientists and institutions of higher education is an integral part of their professional growth today. Standards have been in effect for a long time in European countries and affect the activities of higher education institutions. And therefore, without the development of a proper scientific and publishing culture in Ukraine, there will be no rapid growth of world-scale projects and proper research in various fields.

What is more, Vasylyuk and Day (2019) investigated the issue of the quality of higher education from a theoretical and practical aspect. The authors revealed the essence of the concept, factors, criteria, indicators, indicators, and components of the quality of higher education, as well as highlighted the issue of the quality of higher education in the international context and its regulatory and legal regulation in Ukraine.

The work of Vorobyova, Debych, Lugovoi, Orzhel, Slyusarenko, Talanova, and Tryma (2019) is devoted to the analysis of leading domestic and foreign experiences in assessing the quality of higher education in the context of European integration. Additionally, Gagarin (2017) analyzed the foreign system of higher education in his work.

Besides, Gerasimov (2021) analyzed the legal problems and prospects of the modernization of higher education in Ukraine in his article. The scientist analyzed the legal problems and determined the prospects for the modernization of higher education in Ukraine in the context of global transformations of the modern educational space. The conditions that will contribute to the effectiveness of the functioning of higher education in Ukraine are outlined and the defining directions of the modernization of higher education are singled out, namely: systematic improvement of the national educational space, in particular, the legal framework for the development of higher education; using the experience accumulated by the previous system of higher education and harmonizing it with international standards in this area, introducing the best practices of the countries of the world; development of an effective educational system of higher education institutions that meets modern globalization challenges and demands of society.

The issue of adaptation of foreign experience of state financing of higher education was investigated in the work of Degtyar (2010). In conclusion, based on the experience of foreign countries, in the opinion of the author, to improve the financial support of higher education in Ukraine, it is necessary to pay attention to the use of direct financing methods, such as: financing "by results", because it is fair when the state will finance to a greater extent universities that produce a competitive and highly educated specialist who will feel at ease in the labor market.

The study by Zastrozhnikova (2019) examines the foreign experience of state regulation of higher education. Karpenko, and Demida (2014) analyzed Finland's experience in reforming the system of providing educational services. Also, Kormych L., and Kormych A. (2020) considered the variable possibilities of reforming higher education in Ukraine in the European context. In the study of Krakhmalov and Mys (2022), the foreign experience of quality management of higher education institutions was considered as a factor of competitiveness. The author concluded

that the quality control systems of higher education existing abroad are aimed at: ensuring and/or improving the quality of educational activities in the economic, social, and cultural context of the country; providing support to higher educational institutions to improve the quality of teaching and learning; dissemination of existing experience and exchange of information on quality issues, which are at the same time their main functions.

Strategies for the development of educational systems in the countries of the world are analyzed in the work of Kucherenko and Martyniuk (2011). The international experience of the development of the system of improving the qualifications of scientific and pedagogical workers of higher education institutions is studied in the article by Lytvyn (2021). Attention is drawn to the fact that in higher education institutions of foreign countries, special attention is paid to the possibility of constant access of teachers to the new and relevant background regarding the latest developments, remote PC courses, etc. In this regard, different countries are creating their own digital educational spaces, which provide new opportunities for: transition from classroom learning to virtual learning in different places and at diverse times, thereby developing digital competence through the implementation of digital technologies; designing an individual educational route, meeting everyone's educational needs.

Features of management in the field of higher education in Denmark, Norway, and Sweden were studied by Logvinenko (2014). Pavlova and Nikolaev (2018) drew attention to the current trends in the development of the higher education system of Great Britain and the United States.

The system of dual education in Germany was examined by Rindfleisch and Mennig-Fortmann (2020). The authors summarized Germany's achievements in reforming higher education and concluded that the Federal Republic of Germany over the past decades has accumulated extremely positive experience in the application of the dual education model when the state, educational institutions, and the open economy jointly and mutually beneficially take responsibility for the education of the younger generation. Thanks to the dual education model, Germany provides permanent training of qualified young professionals who study with an orientation to the existing needs of enterprises, that is, after receiving a dual education, young people have good employment prospects. Therefore, dual education plays an essential role in effectively

overcoming youth unemployment. At the same time, the combination of efforts of the state, educational institutions, and the economy corresponds to the basic principles of the social market economy, where the state creates the necessary framework conditions for the free development of the economy.

The educational systems of the countries of the European Union are characterized in the work of Sysoeva and Krystopchuk (2012), in particular, problematic issues and significant achievements in the field of higher education reform and training of qualified personnel in various countries are noted. Tatarinov V.V., and Tatarinov V.C. (2020) investigated the problematic issues of reforming higher education and concluded that education and science are becoming the most important sectors of the world economy and the main factors that ensure the accumulation of human capital. Weak financing of education and science in Ukraine threatens the country's economic security, and does not ensure the accumulation of human capital to the level necessary for the transition to a knowledge economy.

Canada's experience with the internationalization of higher education at the national level is examined in Chirva (2013). It is remarked that the development of the national policy of internationalization of higher education in Canada takes place within the framework of ideas of skilled migration, development of mutual understanding, and profit making. The analysis of federal and provincial initiatives allows us to assert that the normative and legal foundations of the internationalization of the content of education are determined by the provisions of the federal policy of internationalization, programs of the provinces following the strategies of obtaining profit, the development of mutual understanding and skilled migration and are implemented by the subjects of internationalization within the framework of political, programmatic, and marketing approaches. The main areas of activity of the subjects of the internationalization of higher education in Canada are the modernization of the content of higher education within the limits of filling it with an international dimension, increasing the competitiveness of higher education utilizing internationalization efforts, marketing and popularization of higher education in the international arena.

Finally, Camilleri (2017) analyzed the standards of providing higher education in European countries. The researcher analyzed in detail the

standards in the higher education system and concluded that until now there has always been a high degree of tension between ISO quality management system standards and standards developed by stakeholders such as ESG, as the former was considered to be better suited to help organizations meet commercial requirements rather than educational purposes. Both standards share a commitment to a culture of organizational improvement and increased stakeholder participation.

Methodology

During the research, the method of induction was utilized to make formal and logical generalizations, which makes it possible to formulate a general conclusion based on the analysis of individual facts and phenomena. In particular this method helped to analyze the international legal experience of the functioning of higher education systems and make general conclusions. One of the main conclusions is that increasing the differentiation of types of financial support of higher education with all its features is able to significantly improve the quality of the educational services and as a result – to increase the educational level of the population in the country.

The deduction method was employed to obtain intermediate (partial) conclusions based on the analysis of the peculiarities of the regulation of higher education in different countries. The use of the abstraction method made it possible to reveal and identify the latest trends in the field of education by ignoring random phenomena.

The method of comparative analysis was used when comparing the characteristics of the development of higher education systems in Ukraine and other countries and current issues in this context. Given that the method of comparison consists in identifying and searching, determining properties and characteristics based on collected statistical data or empirical studies of individual objects or phenomena, the application of this method in this study made it possible to comprehensively investigate international legal experience, to single out problematic issues, common and distinctive characteristics of higher education and formulate conclusions. In particular, this method helped the authors formulate one of the main conclusions of this study for Ukraine is the need for strict correlation of educational services with the objective needs of the economy and society as a whole. Education should not be separated from socio-economic processes, because otherwise its

main meaning is lost. Educational institutions should provide quality services, and the result of education should be knowledge and skills that will be in demand in practice.

A systematic method was used in this study. Thus, focusing on a systematic approach in research (structure, interrelationships of elements and phenomena, their subordination, hierarchy, functioning, integrity of development, system dynamics, essence, features, factors, and conditions) made it possible to investigate the essence of higher education and how reforming affects change its qualitative characteristics. Thus, in a systematic study, the object under analysis is considered a certain set of elements, the interrelationship of which determines the integral properties of this set. The main emphasis is placed on identifying the variety of connections and relationships that take place both inside the object under study and in its interaction with the external environment. The properties of the object as a complete system are determined not only and not so much by the total properties of its elements or subsystems, but by the specificity of its structure, special system-forming, integrative connections of the object under study. The systematic method made it possible to determine the strategy of scientific research on topical issues of higher education from the point of view of its characteristics and changes in different countries. This method helped to investigate problematic issues regarding the financing and management of higher education institutions in the world. In particular a topical issue in many countries is the purpose of higher education, namely its focus on ensuring the prospective and current educational needs of people and society. The main task of state regulation of the market space of educational services is to create the necessary conditions for the activity of higher educational institutions, because not all countries have implemented effective systems of higher education that would satisfy the needs of society and the state.

The method of relativism, or problematism, also made it possible to thoroughly study the subject of research. In its essence, relativism is a methodological principle of scientific, cultural,

and philosophical thinking, a worldview and philosophical position that denies any absolutes in the field of social phenomena and cultural values, emphasizes the variability, fluidity, historicity, plurality of the spiritual world of man, his knowledge and ideas, forms and social existence. Therefore, the method of relativism made it possible to understand the problems of reforming higher education, both in Ukraine and abroad.

Based on the axiological method, the important role of education as a socio-cultural phenomenon in the formation of one's statehood, the construction of civil society, and the development of the individual, as well as the study of political and legal views, the legislative framework and legal practice, which are directly related to the field of education, are reflected.

Results and Discussion

In highly developed countries human capital is the primary productive factor. Moreover, most of the country's investments are invested in human capital.

From the UN reports on human development, it can be seen that the specific weight of human capital in the USA, Finland, Germany, Switzerland, Japan, and several other countries is up to 80% of their national wealth. A significant role in this context is played by a higher education institution, which provides professional knowledge and develops common cultural capital, which lays a universal foundation for further professional activity. Therefore, it can be claimed that the state of the modern education system ultimately determines the country's development shortly. (British Council, 2019).

The experience of the USA, Great Britain, and some other countries gives reason to assert that a high standard of living is ensured, not only by a good investment and business climate but also by a high level of education and science.

Let's consider the international experience of the functioning of higher education in more detail (Table 1).

Table 1.
Comparative analysis of international regulation of higher education.

Country	Features
Switzerland	<p>In Switzerland, there is no single national education system, no national ministry of education, or any other single central authority governing education. Therefore, in Switzerland, instead of a single national system, there are 26 educational systems, often significantly different and, until recently, practically isolated from each other. At the federal level, two different departments deal with education issues: the Federal Administration of Education and Science of the Department of the Interior and the Federal Administration of Industry, Crafts, and Labor of the Federal Department of State Resources Management.</p>
France	<p>France has an education system that includes elite, prestigious schools and universities. Universities have become centers of transmission of cultural heritage and scientific research, while Higher Schools play a leading role in the training of top-class specialists. Elite schools with their high competitions peacefully coexist with completely free enrollment in most university faculties. At the same time, the non-university sector of higher education is developing in France: three- or four-year Higher Professional Schools, whose popularity is sufficiently large and competes with universities. This is facilitated by a shorter period of study than at a university and a clear professional orientation of training, as a result of which the demand for graduates of these educational institutions from industrial and commercial firms increases. In the system of higher education in France, a certain hierarchy of educational institutions has historically developed, where the lowest level is universities and their branches, which provide higher education in the field of humanities, arts, and natural sciences; technological institutes and engineering schools are more prestigious; higher than them are specialized educational institutions that provide special training in the field of management, foreign languages, politics, communication, and physical education. At the same time, the leading place in the structure of higher education in France is occupied by universities, in which education is divided into short-term and long-term. Short-term programs are chosen by 30% of holders of bachelor's degrees, which after two years of study allow graduates to start professional activities. A state diploma is issued at the end of each cycle to students who studied in long-term programs built on cycles of sequential, level-based education.</p>
Great Britain	<p>In Great Britain, education is built on the principle of competition, which is the main incentive for improving the education system itself. The government's policy in this matter boils down to the fact that educational institutions must:</p> <ul style="list-style-type: none"> - to be financed by the state under contracts for educational activities and educational services; - depend less on state funding and rely more on various sources of income; - evaluate teachers' work more carefully, introduce differentiated payment for this work (teachers' work is paid depending on the number of students and level of education); - to allow the establishment of differentiated payment for education depending not only on the status of the educational institution but also on the subjects studied. <p>However, many representatives of educational circles in Great Britain consider it a mistake to be overly interested in market relations in the field of education and to underestimate traditional pedagogical values.</p>
USA	<p>At the local level, processes of decentralization took place, mainly due to the narrowing of the functions of local educational administrations by transferring a significant part of their powers; creation of a system of urban technological colleges with the additional right to independently resolve issues of the content of education, planning, and structure of the educational process, etc.; introduction of financial management.</p> <p>A distinctive feature of the higher education system operating in the United States is the great diversity of higher education institutions. US public policy aims to ensure that elite US colleges and universities are the most prestigious in the world, making them particularly attractive to international students, professors, and researchers in search of academic excellence. On the part of the state, one of the forms of monitoring the activities of higher education institutions in the USA is the accreditation of these institutions, which involves checking the compliance of the quality of education with established standards and recognizing the importance of an accredited educational institution. In the USA, such an accreditation organization is the Council on Higher Education. For example, in the USA, each state has an organization, whose task is to promote coordination and cooperation between universities. At the same time, the Department of Education in the USA (United States Department of Education) does not have such importance and powers as the Ministry of Education and Science in Ukraine. In addition, it is one of the smallest ministries in the United States, which emphasizes the departure of the United States from a centralized system of state regulation of educational activity. States and local school boards play the central function in regulating educational activities, and the role of the Ministry of Education is small compared to post-Soviet countries.</p>

Finland	<p>Higher education in Finland consists of two equally meaningful sectors - university (after the completion of which mainly "academic" diplomas of type "A" are recognized, and non-university, focused on the formation of industrial competencies and diplomas).</p> <p>There are 39 public higher education institutions in Sweden, of which: 14 universities, and 22 university colleges. Of the other higher educational institutions, 22 are private, partially financed by the state. Education in Sweden is based on science, proven experience, research, and creative development. It is stated that institutions of higher education must interact with the community, the surrounding environment and provide information about their activities. The leading role in higher education in Sweden is given to universities and university colleges, the main difference between them is that colleges do not provide the opportunity to obtain a doctorate. But such a right can be granted after submitting a relevant application to government institutions. Swedish universities are highly competitive, which is explained by the achieved level of education quality. They are marked by compliance with the requirements of time, dynamism, and flexibility in making the necessary educational decisions. In the higher education of the country, there are open, democratic relations between students and teachers, in which personal initiative and creative thinking are valued. The state also establishes the structure of the higher education system, regulates the types of degrees awarded to students, and monitors the quality of education. State funds for research are allocated to each university. Research resources also come from other sources. Many foundations and organizations contribute to their financing. In recent years, higher educational institutions in Sweden have sought to attract more foreign students. The educational process in the higher education system is built in the country following the requirements of the Bologna process because Sweden was among the first countries that signed the Bologna Convention.</p>
Sweden	<p>The national program of internationalization of higher education is implemented with marketing, political, and programmatic approaches. Canada also has bilateral educational exchange programs, international scholarship programs, initiatives to study Canadians abroad, and international youth programs supported by the Federal Department of International Affairs and International Trade; international academic mobility programs within North America and Europe, which are invested by the Department of Human Resources and Social Development of Canada; university partnership programs, international student internships, supported by the Canadian International Development Agency. A specific feature of Canada's national policy on higher education is its compliance with the idea of skilled migration. Implementation of such an idea takes place within the framework of software and marketing approaches. Popularization of the national system of higher education and increasing its prestige in the international arena is carried out through the publication of reference and informational materials; holding of international conferences and seminars; creation of electronic reference resources and databases that contain information about international agreements, exchanges of students, graduate students, scientists; international development projects of Canadian universities. Migration changes promote Canada's educational services on the international stage and help strengthen its competitiveness in the future.</p>
Canada	<p>In Germany, a model of financing by individuals is used, based on a combination of savings programs and preferential financing. The algorithm of its action includes the attraction of public funds by specialized financial institutions and universal banks for the long term and their subsequent provision to the depositor of an education loan in the amount of the accumulated amount at interest rates significantly lower than in the investment resources market.</p>
Germany	

Data provided by Babichev (2017), Gagarin (2017), British Council (2019), Pavlova, & Nikolaev (2018), Vorobyova, Debych, Lugovy, Orzhel, Slyusarenko, Talanova, & Tryma (2019), Logvinenko (2014), Chirva (2013) and Rindfleisch, & Mennig-Fortman (2020).

Analyzing the above data on educational systems that exist in different countries of the world, it can be noted that all of them can be divided into two large groups, which include public higher educational institutions and private higher educational institutions. Of course, specific models of financing and management of higher education institutions may differ from country to country. However, despite the peculiarities of the functioning of various higher educational institutions in different countries of the world, all successful institutions are united by a clear orientation to the needs of practice and constant improvement of educational programs. Education always lags behind practice, but

success is achieved by those who have the shortest lag.

As for the tools in the field of higher education that could be useful for Ukraine, they include all those that involve attracting as many foreign students as possible to study in Ukraine. Currently, the population of Ukraine is decreasing catastrophically. First of all, this is connected with migration processes caused by Russia's aggression against Ukraine. After the end of the war, it would take years, if not decades, for the population to reach pre-war levels. At the same time, the development of the country is impossible without the possibility of

developing the economy, which will require workers. Therefore, our state should already develop programs for inviting foreign students to domestic educational institutions, as well as programs aimed at improving the conditions of labor migration to Ukraine.

The question of quality is the most significant plank in the strategy of higher education institutions and should be achieved following the long-term planning process, which takes into account the weaknesses and strengths of the educational institution, the presence of exceptional advantages, as well as the opportunities and threats that the external environment brings to it.

The issue of financing education is no less meaningful. Thus, in almost all the leading countries of the world, school is a priority object of funding. The experience of leading foreign countries proves once again that further economic development is impossible without a significant increase in spending on education and science.

Thus, although there are many directions for reforming university education, it is necessary to develop scientific and technical activities in universities and other higher educational institutions and to obtain the results of scientific research in universities that meet modern requirements.

Conclusions

As a result of the conducted study of international legal experience in the field of higher education:

- 1) An essential issue among foreign countries regarding higher education is the financing of such education. Thus, there are various models of financial support for higher education institutions, but attention is drawn to the fact that increasing the differentiation of types of financial support of higher education with all its features will be able to significantly increase the educational level of the population in the country.
- 2) A topical issue in many countries is the purpose of higher education, namely, its focus on providing prospective and current educational needs of people and society. The main task of state regulation in the market space of education services is to create the necessary conditions for the activities of higher education institutions.

- 3) One of the main conclusions of this study for Ukraine is the need for strict correlation of educational services with the objective needs of the economy and society as a whole. Education should not be separated from socio-economic processes, because otherwise its main meaning is lost. Educational institutions should provide quality services, and the result of education should be knowledge and skills that will be in demand in practice.
- 4) As the experience of developed countries with advanced systems of higher education shows, in particular the USA, Great Britain, Finland, Germany, success in the educational field can be achieved thanks to well-thought-out state regulation, which is not manifested in bureaucratic control and meticulous regulation of the activities of higher education institutions, but in the development of the concept and the strategic plan of higher education activities, as well as in creating favorable conditions for the growth of the prestige of the country's higher education institutions.
- 5) To improve the financial provision of higher education, in our opinion, it is necessary to pay attention to the use of direct financing methods, such as: financing "by results", because it is fair when the state will finance higher education institutions that produce a competitive and highly educated specialist who freely will feel on the labor market. It would also be worthwhile to improve the method of financing "by expenses", namely the program budget and drawing up estimates by types of activities, as Canada, Great Britain, and France have done. Also, in the field of higher education, as an incentive for the most talented students and providing them with a hundred percent guarantee of obtaining a high-quality higher education.

Given the above, it can be stated, that the research objective has been fully achieved.

Regarding further scientific research, we consider it necessary to consider the trends in the management of higher educational institutions in foreign countries.

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