

LEGAL SIGNIFICANCE OF THE CONCEPT “ACADEMIC INTEGRITY”

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INTRODUCTION

Task statement and relevance of the research subject. The requirements, which the life sets today towards the professional training of individuals, receivers of education services, necessitate the strengthening of methodological educational fundamentals as a whole. Dynamic development of the legislation, particularly the consolidation of new categories in the Laws of Ukraine “On Education”, “On Higher Education” etc., which incline to come to grips with their methodological role and legal significance both for the entire system of domestic education and specific participants of the educational process, should be arranged with the provisions of other statutory instruments that regulate related social relations. The legal concepts and definitions have become more relevant for the formation of professional awareness of a scholar. This is linked with the implementation of some provisions of the European Union, including the education sector, in the domestic legislation and the need overall to reflect the complexity of perception of general vectors in training support and activities of education seekers at different levels, scientists according to the principles acting in the EU countries. These problems become complicated in the domestic legal environment that has been highlighted and is highlighted by scholars.

However, the consolidation of individual concepts in the Laws of Ukraine “On Education”, “On Higher Education” needs reinterpretation. For example, the concept “academic integrity” is not just a criterion for compliance with a certain standard of behaviour but a direction for a radical reform of the education system in Ukraine. The conclusions on the conceptual nature of the mentioned concept can be drawn from the analysis of part 1 marked 1 of Article 1 of the Law of Ukraine “On Education” which indicates that academic integrity is a set of ethical principles and rules defined by this Law and other laws of Ukraine, which should be followed by the participants of the educational process during learning, teaching and conducting scientific (creative) activities in order to ensure reliance in the learning outcomes and/or scientific (creative) achievements¹. Moreover, such a concept reflects an

¹ Про освіту: Закон України / Відомості Верховної Ради (ВВР), 2017, № 38–39, ст. 380.
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element of training of achievement-oriented human capital and acts as a major part of the foundations of the functioning of the higher education system in Ukraine – efficiency. Thus, in the context of observing (supporting) “academic integrity”, it is possible to attain some tasks of the Law of Ukraine “On Education”, including innovation-driven development, personal self-fulfilment, meeting the demands of society, labour market and state for skilled professionals etc².

Analysis of recent research and publications. The category of integrity is newish in domestic legal science. Many research papers are devoted to the issue of “integrity”, including ones of L. Prudyus, L. Kurochka et al. The scientific efforts of I. Fedorovych, T. Semkiv, L. Zuieva, S. Hlushchenko et al. cover the problems of the integrity of judges. The research subject becomes topical in the process of applying the term “integrity” under the conditions of modification of the legislation in the education sector.

1. Definition of the term “integrity” and “academic integrity”

Having recourse to reference literature, it is essential to mark that the term “integrity/chastity” (Church Slavic: pudicity, moral and carnal purity, virtue, Latin: castitas) is a moral quality and honesty that is expressed in carnal purity in all its manifestations (as a rule, this concept is more typical for secular societies). Integrity is a positive opposite of sexual incontinence, adultery, lascivious behavior, and nowhere more so than in singledom. Lust (craving, Latin: luxuria) is contrary to integrity³. Thus, the analysed concept is intended to specify a complex of moral qualities of the individual. In such a framework, “integrity” is considered by some Ancient Greek philosophers. Among others, Socrates interpreted the above term as a conscious and responsible attitude of the individual to his lifestyle, principally moral behaviour. Integrity means a capability to be ruled by own beliefs and to resist to misconceptions of others⁴. Now, the mechanisms of academic integrity and tools of pathology counteraction are implemented in the internal programme documents on research ethics and statutory principles and introduced into the text of laws and regulations in the area of scientific policy in Europe. It is interesting to note that unlike the USA where integrity is academic and covers all functioning spheres of higher education institutions and scientific establishments and, in Europe, integrity becomes more relevant in the very

² Про вищу освіту: Закон України / Відомості Верховної Ради (ВВР), 2014, № 37–38, ст. 2004. URL: <http://zakon.rada.gov.ua/laws/show/1556-18>

³ Етимологічний словник української мови: У 7 т. / Редкол. О. С. Мельничук (голов. ред.) та ін. К.: Наук. думка, 1983 Т. 6: / Уклад.: Г. П. Півторак та ін. 2012. 568 с.

⁴ Лис В. Про Сократа, Данила Галицького, Фернандо Магелана, Ісаака Ньютона, Шарлотту, Емілі, Енн Бронте. К.: Грані-Т, 2008, С. 27–28.

context of research activity that determines the use of term “research integrity” in the key documents and declarations related to the development of European research space and scientific policy in the EU and funding programme for research “Horizon 2020” in particular⁵.

In Ukraine, the above concept embraces not only the research process (conducting of scientific, creative activity) but also centres on the training and teaching (in all education institutions) like in the United States.

2. “Integrity” as a category of legal science

“Integrity” as a category of legal science is used in the anti-corruption legislation. Thus, the Center for Support of Civil Service Institutional Development proposes to define integrity as a course of conduct of a civil servant on the protection of public interest and his refusal of meeting individual private interests while realizing his governmental powers⁶. In the Law of Ukraine “On the Principles of State Anti-Corruption Policy in Ukraine (the Anti-Corruption Strategy) for 2014–2017”, “integrity of assets of officials” is a part of the recommendations of Group of States Against Corruption (GRECO) and the EU, and the effectiveness of corruption prevention and combating directly depends on bringing in line with “integrity standards” for individuals who hold elective positions. Moreover, one of the key elements for supporting integrity in the civil service (integrity system of the public service) is legislation reformation. Therefore, the reasons are as follows: a) non-compliance with international standards and best global practices; b) remuneration (components of salaries, transparency and motivation of remuneration); c) responsibility nature, etc⁷. In order to achieve integrity, it is adopted the Law of Ukraine “On Rules of Ethical Conduct” and a range of branch Codes of Ethical Conduct which are aimed at, according to Article 12 of the Law, shaping a positive image, contributing to the confidence building, honesty consolidation, impartiality and effectiveness. It also should be marked the availability of the provision on the responsibility of individuals who violate the rules of ethical conduct. In line with Article 18 of the analysed regulatory legal act, the specified individuals bear disciplinary, administrative, criminal, pecuniary liability, taking into account their legal

⁵ Академічна доброчесність: проблеми дотримання та пріоритети поширення серед молодих вчених : кол. моногр. / за заг. ред. Н. Г. Сорокіної, А. Є. Артюхова, І. О. Дегтярьової. Дніпро : ДРЦДУ НАДУ, 2017. С. 129.

⁶ Україні – європейські принципи державної служби : буклет. К. : ГУДС, Центр сприяння інституційному розвитку державної служби. 2006. 7 с.

⁷ Про засади державної антикорупційної політики в Україні (Антикорупційна стратегія) на 2014–2017 роки : Закон України. Відомості Верховної Ради (ВВР), 2014, № 46, ст. 2047 URL: <http://zakon3.rada.gov.ua/laws/show/1699-18>

status⁸. Moreover, the concept “integrity” is not defined within the framework of anti-corruption legislation in Ukraine, along with its wide use. Integrity, as a category of anti-corruption legal regulation, doesn’t have clear content and internal architectonics. The above conclusions is confirmed by the Resolution of the Cabinet of Ministers of Ukraine dated April, 29, 2015 No. 265 “On Approval of the State Program for Implementing the Principles of State Anti-Corruption Policy in Ukraine (Anticorruption Strategy) for 2015–2017 in which the fifth point of the section “Expected results, effectiveness of the Program” marks the creation of an effective mechanism of prevention of corruption, conflict of interests, violation of ethical conduct standards and emphasizes maintenance of control over the adherence to rules of the integrity of individuals (public servants, officials of local authorities, others)⁹. Consequently, following the line of thinking of the Program’s authors, the abovementioned elements, which will make it possible to carry out an effective control and compose the content of the term “integrity, should become constituents of integrity. However, taking into account the above, according to the Program (point 5 of the section “Expected results, effectiveness of the Program”), it is significantly narrowed the structure of entities, whose activities are directed towards integrity control because that sort of task is exercised by the National Agency on Corruption Prevention under the Law of Ukraine “On Prevention of Corruption” and the analysed Plan. Other listed entities, which are entrusted to perform anti-corruption activities, are not intended to control “civil servants integrity” under the Law of Ukraine “On Prevention of Corruption”¹⁰.

The concept “academic integrity”, which is seen at the new version of the Law, consists of two main parts: 1) as a set of ethical principles; 2) as rules defined in the Law of Ukraine and other statutory legal acts¹¹. Referring to the content of the term “academic integrity”, as a set of ethical principles, it is important to highlight the Codes of Academic Integrity implemented (introduced) in higher education institutions (hereinafter – “HEIs”). The tendency is mediated by the borrowing of “best practices” of leading world

⁸ Про правила етичної поведінки : Закон України Відомості Верховної Ради (ВВР), 2013, № 14, ст. 94. URL: <http://zakon.rada.gov.ua/laws/show/4722-17>

⁹ Про затвердження Державної програми щодо реалізації засад державної антикорупційної політики в Україні (Антикорупційної стратегії) на 2015–2017 роки : Постанови Кабінету Міністрів України від 29 квітня 2015 року № 265. URL: <http://zakon3.rada.gov.ua/laws/show/265-2015-%D0%BF>

¹⁰ Про запобігання корупції : Закон України. Відомості Верховної Ради (ВВР), 2014, № 49, ст.2056 URL: <http://zakon.rada.gov.ua/laws/show/1700-18>

¹¹ Про освіту: Закон України / Відомості Верховної Ради (ВВР), 2017, № 38–39, ст.380. URL: <http://zakon.rada.gov.ua/laws/show/2145-19>

higher education institutions and for the observation of requirements of Article 42 of the Law of Ukraine “On Education”. The development of the program “The Fundamental Values of Academic Integrity” of the International Centre of Academic Integrity under Rutland Institute for Ethics at Clemson University, South Carolina, is a ground for the implementation of such measures. As defined in the Program, academic integrity is a commitment of the academic community, even in the face of adversity, to six fundamental values: honesty, trust, fairness, respect, responsibility, courage¹². However, despite the fact that “fundamental principles of ethical conduct for public officials” are consolidated in the relevant Law of Ukraine and branch programs for the prevention of corruption of executive authorities and other entities are elaborated upon Decision of the National Agency on Corruption Prevention (hereinafter – “the NACP”) dated January 19, 2017 No 31 “Methodical Recommendations on the Preparation of Anti-Corruption Programs”¹³, taking into account the provisions of the Law of Ukraine “On Prevention of Corruption”¹⁴, it is essential to use the similar approach – to fix the rules of ethical conduct in a particular Law of Ukraine, for example, “On the Rules of Academic Ethical Conduct, to improve the effectiveness in supporting “academic integrity”. Moreover, it makes sense to elaborate “unified” methodical recommendations for the preparation of branch codes of academic integrity which would contribute to the unification of measures for ensuring academic ethics (academic ethical principles for certain entities).

Provisions on the formation of a national integrity system designed to cover all areas, including the education sector in Ukraine (the author’s note), are especially noteworthy. Transparency International attempted to set the National Integrity System as a general approach to the evaluation, the discovery of corruption in Ukraine and the drafting of anti-corruption measures. It stands to mention that there is no a unified standard for the introduction of the streamlined anti-corruption system and, consequently, it complicates the process of shaping the integrity of a public servant and the system of “academic integrity”.

Among the high priority measures of the promotion of “academic integrity”, one can mark the first steps to the creation of the system for

¹² Сацик В. Академічна добросесність: міфічна концепція чи дієвий інструмент забезпечення якості вищої освіти? URL: <http://education-ua.org/ua/articles/930-akademichna-dobroshesnist-mifichna-kontseptsiya-chi-dievij-instrument-zabezpechennya-yakosti-vishchoji-osviti>.

¹³ Затверджено Методичні рекомендації щодо підготовки антикорупційних програм органів влади. URL: <https://nazk.gov.ua/news/zatverdzheno-metodychni-rekomendaciyi-shchodo-pidgotovky-antikorupciynyh-program-organiv-vlady>

¹⁴ Про запобігання корупції: Закон України. Відомості Верховної Ради (ВВР), 2014, № 49, ст.2056 URL: <http://zakon.rada.gov.ua/laws/show/1700-18>

prevention and detection of academic plagiarism in the higher education institutions which meets the provisions of part 8 of Article 16 of the Law of Ukraine “On Higher Education”. Moreover, the building of the above system is performed within one particular institution. Thus, such a trend doesn’t raise doubts about its development. However, while realizing paragraph 1 of part 1 of Article 1 of the Law of Ukraine “On Higher Education”¹⁵, which defines the autonomy of “education” institution, its self-reliance, independence towards the realization of academic freedom, research, etc., the system of prevention and detection of academic plagiarism becomes a closed system, namely, one that doesn’t consider scientific achievements carried out within other HEIs. Therefore, the autonomy of the functioning of the system can’t be considered as an effective one to the fullest extent.

An individual issue of the support of academic integrity, which needs resolving, is the establishment of the National Agency for Assurance of Higher Education Quality and accredited independent institutions for the evaluation and quality assurance of higher education regarding its compliance with the requirements for the system of quality assurance of higher education, compliance with international standards of higher education quality and maintenance of “academic integrity”. It is also important to draw attention to the procedure of integrity verification of persons who are obtaining/or have obtained academic ranks (professor, associate professor). According to the Order of the MES of Ukraine No. 13 dated 14.01.2016 “On Approval of the Procedure for Conferment of Academic Ranks to Academic and Research Staff”, there is a procedure for assignment of academic ranks. Thus, Section II sets the key criteria for the assessment of academic activity of the candidates for academic ranks among which there is: carrying out educational activity at a high level; a certificate on training/internship, participation in the international projects, top-level teaching in the national or other languages (OECD), work experience, teaching-learning and research papers, which are indexed by the relevant scientometric databases, certificates in compliance with the Common European Framework, etc.¹⁶. The correspondence of activities of a research/other official defined by the Procedure with the indicated criteria gives ground to obtain an academic rank (associate professor/professor). The above is confirmed by Section IV of the Regulation “Deprivation of academic ranks”, in particular, part 1 states that deprivation of academic ranks is carried out under the procedure of their conferment and

¹⁵ Про вищу освіту: Закон України / Відомості Верховної Ради (ВВР), 2014, № 37–38, ст. 2004. URL: <http://zakon.rada.gov.ua/laws/show/1556-18>

¹⁶ Про запобігання корупції: Закон України URL: <http://zakon.rada.gov.ua/laws/show/1700-18>

considered by the MES (it is concluded about the invalidation of the certificate of a person who has obtained an academic rank) upon a decision of the Academic Council of a higher education institution¹⁷. Therefore, there is a statutory option of the Academic Council of HEI, which has recommended the MES to uphold its decision of awarding a person with an academic rank following the certification case of an applicant and a relevant resolution, to reconsider such (own) decision. However, it is worth noting that deprivation of the person's academic rank (certificate annulment) can take place in the event of a violation of the procedure of case formation and inconsistency of the person, at the time of filing a case to the MES, with the criteria defined in the Procedure. If the violations are revealed after the approval of a decision of the Academic Council of HEI of the MES of Ukraine, it is essential to envisage the procedure of bringing HEI representatives, who were responsible for the case formation, to an academic liability. We believe that statutory consolidation of such a procedure will facilitate the carrying out of arts. 1 and 11 of the Law of Ukraine "On Higher Education" which are the basis for determination of the autonomy of a higher education institution taking into account an advanced level of its "academic integrity". Individual attention is paid to the elimination of the possibility to practice upon the HEI requirements in order to "manipulate" applicants for academic ranks because the Law arranges a special type of "academic coercion" which is mediated by the availability of provisions on academic responsibility. Considering the urgency of the issue of the application of measures of academic responsibility, its solution lies in further research results.

CONCLUSIONS

Summing up the presentation of the basic research information, it stands to focus on the importance of the use of other statutory acts, well-established concepts, categories, definitions in the Law. Primarily, the emphasis should be placed on the unified approach to the content and essence of the concepts, which are used in the Laws "On Education", "On Higher Education". The above fact is connected with the use of such terms in other statutory acts in relation to which the mentioned ones are special. At the outset, it would be expedient to define "academic integrity", "academic responsibility" etc. Being the fragment of theoretical knowledge of scholars, they would reflect that phenomenon existing in the real practice, clear up its essence drawn a line between concepts and categories which are the subject-matter of other sciences. The theoretical ground of the concepts used in the Laws would make

¹⁷ Про запобігання корупції : Закон України URL: <http://zakon.rada.gov.ua/laws/show/1700-18>

it possible to ensure a logic nature and consistency of their use by legal practitioners. And vice versa, when there is no definition, the legislator can (as exemplified in this research) pursue a somewhat hasty implementation of rulemaking innovations. This problem subsists in the form of “swiftness” of imitating European Union countries that is mediated by a lack of time for sound scientific inquiry.

SUMMARY

The article analyzes the essence and legal significance of the concept of “academic integrity”. It is conducted a comparative analysis of the essence of the concept of “integrity” in the legislation controlling the education sector in Ukraine and anti-corruption legislation. The paper establishes the statutory differences between the application of the above term and prospects of forming its generally accepted definition to use the unified approach.

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