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## Higher Education Reform 2014-2015 in Ukraine and its Impact on Teaching and Learning of European Studies

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### 1. The Legislative and Regulatory Framework for Legal Education

On May 19, 2005 a crucial event for the further development of higher education in Ukraine took place in the Norwegian city of Bergen. The European Conference of Ministers “The European Higher Education Area – Achieving the Goals”, responsible for higher education, approved Ukraine’s accession to the Bologna Process. They officially recognized that accession of Ukraine towards the integration of the national higher education system into the European Higher Education Area is based on the principles and objectives set up in the Bologna Declaration “On the European Space of Higher Education” adopted on June 19, 1999<sup>1</sup>. In fact, Ukraine joined the Bologna Process before adopting the Action Plan

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<sup>1</sup> Bologna Declaration “On the European Space of Higher Education.”  
<http://ec.europa.eu/education/policies/educ/bologna/bologna.pdf>

for 2004 – 2005, the aim of which was the implementation of the Bologna Declaration into the higher education of Ukraine (approved by the Ministry of Education and Science of Ukraine on January 23, 2004)<sup>2</sup>.

It is necessary to recall that the main goal of the higher education reforms is the adoption of criteria and standards to ensure compatibility and comparability of the national system of higher education, in particular, the introduction of comparative higher education degrees and time constraints of study, quality assurance (especially the introduction of the expert evaluation model of quality assurance at the national level), the introduction of uniform standards of qualifications (qualification frameworks), credit transfer system, academic mobility, integrated research and study programs etc.

With respect to its international obligations, Ukraine has reaffirmed its commitment to coordinate actions within the framework of the Bologna Process in order to create the European Higher Education Area, as defined by the decree of the Ministry of Education and Science of Ukraine “On the Approval of the Action Plan for the Quality of Higher Education in Ukraine and its Integration into European and Worldwide Educational Community by 2010” adopted on July 13, 2007<sup>3</sup>. The main aims under this Action Plan were: modernization of the system of higher education, as well as the system and structure of qualifications; improving of the content of higher education and organization of teaching process; rising of efficacy and quality of higher education; international recognition of documents of higher education; strengthening of position of Ukrainian education institutions on the European and world market of educational services etc.

To assure quality it was recommended:

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<sup>2</sup> An Action Plan for 2004-2005 in Regards to the Implementation of the Bologna Declaration into the Higher Education System and Science of Ukraine: the Decree of the Ministry of Education and Science of Ukraine No. 49 adopted on January 23, 2004. [http://osvita.ua/legislation/Vishya\\_osvita/3127/](http://osvita.ua/legislation/Vishya_osvita/3127/)

<sup>3</sup> On the Approval of the Action Plan for the Quality of Higher Education in Ukraine and its Integration into European and Worldwide Educational Community by 2010: Decree of the Ministry of Education and Science of Ukraine No. 612 adopted on July 13, 2007. <http://www.nmu.edu.ua/bolon11.php>

- to develop recommendations on introducing national Standards and Recommendations for Quality Assurance (QA) in the European Higher Education Area;
- to create the system of accreditation and the national Educational Accreditation Center;
- to develop measures for increasing the international level of Ukraine's participation in the external QA system;
- to develop legal mechanisms for participation of business structures in controlling quality of higher education;
- to develop measures to increase the level of participation of students in the National QA etc.

In this regard a number of events indicating systemic reform of higher education have been held in Ukraine since it joined the Bologna Process.

Nevertheless, a considerable amount of both positive and negative professional commentaries on achievements in higher education reformation within the Bologna reforms have been expressed. Thus, because of long-term reforms and the absence of relevant policy measures in the sphere of higher education, in addition to the enhancement of its commercialization and shortage of forecasting as to the demand of professionals in various industries, the higher education system does not adequately provide employees training within the needs of the society. This was mentioned in the Guidelines of the Parliamentary hearings "National Innovation System of Ukraine: Problems of Development and Implementation"<sup>4</sup>.

The Constitution of Ukraine states that national policy in the education sphere is determined by the Verkhovna Rada of Ukraine and the fundamentals of education – by the laws of Ukraine. Although until recently the special legal basis for the Bologna reforms in Ukraine was not formed, the core provisions of its development were consolidated in the adopted July 1st, 2010 Law of Ukraine «On

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<sup>4</sup> Guidelines of the Parliamentary Hearings "National Innovation System of Ukraine: Problems of Development and Implementation": the Enactment of the Parliament of Ukraine No. 1244-V adopted on June 27, 2007 // Verkhovna Rada of Ukraine Gazette. – 2007. – No. 46. – Art. 525.

the Basis of Domestic and Foreign Policy»<sup>5</sup>. This Law provides support to the initiatives of the Bologna Process, recognizing the central role of HEIs in the development of European higher education and the benefits of cooperation based on their partnership.

The beginning of 21st century was marked by the fundamental reforms in the Ukrainian secondary education. In brief, the length of study was extended from ten to twelve years and then again shortened to eleven years; the assessment system was transformed from a 5 to 12 scale system; the school leaving examinations are not held at schools any more, they are held in special centers simultaneously across the country with generally anonymous grading. Definitely all this has influenced the system of higher education in Ukraine.

Since 2005 a number of changes in the higher education system have been introduced. First of all the credit-transfer system was implemented in the vast majority of universities and legal faculties in particular. However, it seems to be unclear why distinct law departments within the same university could be governed by different grading systems. For instance, the department of Civil and Economic Justice at the National University “Odessa Academy of Law” applies the old 5 score grading system while the faculty of International Legal Relations of the same University until last year used the credit transfer system accordingly.

Secondly, the Postgraduate Master Programs were prolonged for two years of full-time study in the overwhelming majority of law schools (the exceptions are the Law Faculty at the Kyiv University of Law, National University “Odessa Academy of Law”, Kyiv National Economic University named after Vadym Hetman, Vasyl Stefanyk Precarpathian National University etc.) where it still remains to be a one year Master Program there still remains a one-year Specialist Program (the remnant of the Soviet higher education).

Thirdly, the admission procedure has been changed completely. Before 2006 it was secondary school-based in combination with entry exams to the universities,

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<sup>5</sup> On the Principles of Domestic and Foreign Policy: Law of Ukraine, adopted on July 1, 2010 // Verkhovna Rada of Ukraine Gazette. – 2010. – No. 40. – Art. 527.

nowadays it is based on the anonymous external independent testing (assessment). Furthermore, applicants to some specialist programs are also screened by additional criteria, for example performance of instrumental / vocal piece or painting examination in the art department. Starting from 2016 (under the 2014 Law of Ukraine “On Higher Education”) it is planned to introduce a new mechanism for electronic admissions to HEIs and an automatic allocation of places within the state order (see more detailed information on admission procedure below).

Requirements to the contents, scope and level of higher education and professional training in Ukraine was determined by the Law of Ukraine “On Higher Education” adopted in January 2002 before the Ukraine’s accession to the Bologna Process. Since then for a long period of time different political forces have been preparing drafts of the Bill “On Higher Education” to approximate higher education standards to European Union ones. Finally, in December 2012 – January 2013 three Bills of the Law “On Higher Education” (No. 1187, 1187-1, 1187-2) were submitted to the Parliament.

After a thorough examination of the Bills, it is possible to conclude that each of them has its own pros and cons. The Bills 1187 and 1187-2<sup>6</sup> are quite similar in content and offered innovations. By comparison, the most progressive and breakthrough seems to be the Bill 1187-1 presented by the opposition parties. In order to have a clearer understanding of the essence of higher education future reforms, we propose to have a quick glance into the details of the last part of present paper.

In February 2013 all three Bills were directed to the Institute on Legislation of the Verkhovna Rada of Ukraine for legal expertise. In early March 2013 commentaries and recommendations of experts were sent back to the Parliament Committees where they remain without any further progress till 2014. However,

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<sup>6</sup> Bills of Law “On Higher Education.” [http://w1.c1.rada.gov.ua/pls/zweb2/webproc2\\_5\\_1\\_J?ses=10008&num\\_s=2&num=1187&date1=&date2=&name\\_zp=&out\\_type=&id=](http://w1.c1.rada.gov.ua/pls/zweb2/webproc2_5_1_J?ses=10008&num_s=2&num=1187&date1=&date2=&name_zp=&out_type=&id=)

after all, Bills No. 1187 and 1187-1 were declined and the improvement of the Bill No. 1187-2 started.

It was a long discussion process before July 1st, 2014, when the Verkhovna Rada of Ukraine voted in the second reading for adoption of the new Law of Ukraine “On Higher Education.” The division of votes was the following: out of 450 deputies of the Verkhovna Rada 276 voted “in favour”, 0 – “against”, 1 – “abstained”, 60 – “did not vote”, more than 100 were absent.

The adoption of the 2014 Law of Ukraine “On Higher Education” is extremely important in terms of educational and scientific development of the nation. One of the main problems of the reform seems to be the average age of the Rectors of the Universities (sixty to sixty-five) who gained their education in the Soviet Union and whose way of thinking is based on the old educational system. As a result they hardly understand the necessity of the reform and do not realise by what means it can be done.

Among recently held events in the sphere of higher education development in the context of European integration was the «Training Program for Rectors of Higher Educational Institutions» held in Kyiv, on April 22-24<sup>th</sup>, 2013 with the participation of the Ministry of Education and Science of Ukraine, the Committee on Science and Education of the Verkhovna Rada of Ukraine, the Institute on Legislation of the Verkhovna Rada of Ukraine and others. Approximately eighty Rectors of the Ukrainian Universities were present. They could exchange their views concerning the reforms; ask questions to the Minister of Education and Science of Ukraine directly. Therefore, as it can be seen from the discussion, there is an absence of consensus and ambiguity in the vision of future higher education development<sup>7</sup>.

The system of legal education in Ukraine has its own adopted standards and requirements. There is a set of compulsory disciplines approved by the Ministry of Education and Science of Ukraine and it is obligatory for the students to fulfil

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<sup>7</sup> O.M. Klymenko, G.O. Mykhailiuk. “Bologna Process in Ukraine: in the Research of Higher Education National Model System,” *Memoirs of the Institute on Legislation of the Verkhovna Rada of Ukraine* 3 (2013): 58-64. [in Ukrainian].

these requirements. The primary novelty of the 2014 Law is the provision of Article 62, paragraph 15 dealing with the right of students to self-selection of disciplines. The provisions of the 2014 Law seem to be indeed breakthrough as they provide a possibility for students to have not less than 25 percent of optional subjects out of the general number of ECTR credits for the appropriate level of higher education. For the present moment the only Law School in Ukraine where the students have both compulsory and optional courses is the Law School of the National University of “Kyiv-Mohyla Academy”. Other universities provide only compulsory courses with no possibility for a student to focus on his/her sphere of interests. It could be explained by the governmental policy – first and foremost, the aim of legal education in Ukraine is to form a general understanding of basic concepts in all branches of law and to meet the growing demands of the legal services market.

The state standards for higher education are described Articles 9 – 10 of the 2014 Law (Part III, Articles 11 – 15 of the 2002 Law). Pursuant to the Law, there are three components in the system of higher education standards: the state component (legislation), the University component (the Charter) and the department one.

As the legal profession becomes very prestigious and much in demand, a large network of legal educational institutions and faculties has been set up in Ukraine recently. The higher educational establishments that train lawyers include: universities, academies, institutes, colleges, and professional colleges (technicums).

In fact, opening a Law School is considered to be the change in structure of the university that should be done by means of the state component (pursuant to Article 27 of the 2002 Law) and the University component (the Charter of the University<sup>8</sup>).

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<sup>8</sup> An example of the University Charter. <http://www.univ.kiev.ua/ua/geninf/statut/>

Article 27<sup>9</sup> of the 2002 Law “On Higher Education”<sup>10</sup> refers to creation, reorganization and liquidation of:

1) *state-owned* higher education establishments of:

- the *third or fourth level* of accreditation that is exercised by the Cabinet of Ministers of Ukraine;

- the *first and second level* of accreditation – by the central executive authorities which implement state policy in the field of education;

2) *private ownership* higher education establishments – by the private owner(s).

Additionally, the Charter of higher education establishment should also include reorganization procedure. Meanwhile, it is the prerogative of the Ministry of Education and Science of Ukraine to determine the essential amount of students at the university.

Gradually, the Academic Council of the university express its opinion on liquidation, reorganization of different departments, institutes and faculties to the Rector of the university who acts according to the Charter.

The questions of existing program change and creation of a brand new degree program are dealt with by the Academic Council of the faculty (institute). Further approving by the Rector of the university is additionally required. Besides, the Rector also approves the Statute of all structural units of the university.

Indeed the universities by themselves determine the content of curriculum, programs and organizational forms of educational process in order to meet the needs of the labour market. The curriculum is approved by the university departments, study commission (*navchalno-metodychni komisiyi*), academic councils of the departments (institutions). The 2014 Law presumes to have considerable freedom, independency and autonomy for universities, in particular in issues of curriculum and program approving.

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<sup>9</sup> The 2014 Law in comparison to the 2002 Law has a different focus and deals with reorganization issues very briefly in Articles 24, 28.

<sup>10</sup> Law of Ukraine “On Higher Education,” 2002. <http://zakon4.rada.gov.ua/laws/show/2984-14>

Unfortunately, the 2014 Law does not provide for significant improvement in the area of quality assurance. The Law establishes the National Agency for Quality Assurance (the Agency), however,

“the quality assurance is neither major nor self-sufficient function of the Agency. The Law retains the same nontransparent system of separate licensing of all area of education upon the expert opinion from the Agency. The Agency is also authorized to do the accreditation, the procedure of which is not identified by the Law. In addition, the Agency is doing external quality assurance and supervising internal quality assurance, both of which are not connected neither to the licensing nor accreditation process.”<sup>11</sup>

Considering, that neither goal nor procedures of the QA are clearly specified in the new Law, it is difficult to expect the establishment of transparent and efficient QA system for higher education. Moreover, the fact that the Agency itself is a subject of Government supervision, its Statute has to be approved by the Government, and the head of the Agency is a subject of appointment by the Government, significantly undermines the credibility of the Agency as independent body for quality assurance.<sup>12</sup>

The legal basis for the internal QA system in education in Ukraine also includes the Decree of the President of Ukraine No. 244 dated to 20 March 2008 “On Additional Measures for Improving the Quality of Education in Ukraine” and the Decree of the President of Ukraine No. 857 following the requirements of the European Register of Quality Assurance “On Assurance of Further Development of Higher Education in Ukraine”. Though both decrees include many measures, they are mostly not meaningful for QA in higher education as they mainly cover social issues. The mere comparison with the title of the Ordinance of the Minister of Science and Higher Education in Poland, dated to 12 July 2007, on standards of education for the particular specializations and levels of education as well as the

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<sup>11</sup> Legal Education Quality Assessment of the Law Faculty at Lviv Ivan Franko National University. Report with Recommendations on Legal Education Quality Assurance Policy Development / Delaine Swenson, Finlay Young, Myroslava Antonovych, Oksana Syroid. – July, 2014.

<sup>12</sup> Ibid.

procedures of creation and conditions necessary for the university to realize both inter-specializations studies and macro-specializations demonstrates different approaches to the problem. However, Ukrainian Decrees include such issues as:

- developing methods and criteria of determining ratings of HEIs of III-IV levels of accreditation by May 2009;
- creating independent agencies of monitoring quality of HEIs in accordance with the European Network of Quality Assurance in Education;
- creating structural subdivisions of the Ukrainian Center of Quality Assurance in all regional centers of Ukraine, their financing and technical supply.

The regulatory framework for higher education also includes Decrees of the Ministry of Education and Science of Ukraine such as “On the Approval of the Regulation on Organization of Teaching in Higher Education Institutions”, “On the Peculiarities of Introduction of Credit and Module System of the Organization of Teaching”, “On Introduction of the European Credit-Transfer System in the Higher Education Institutions in Ukraine” and others.

Finally, important legal documents for the implementation of the internal educational QA system are resolutions of senates (academic boards) of universities, such as: a statute of the university, rector’s instructions, and regulations of the university.

## **2. General Overview on Quality Assessment of Legal Education within the Civilian Security Sector Reform**

Nowadays in the period of civilian sector reform in Ukraine, it is highly important to pay attention to educational sphere of civil servants that are going to provide changes and reform the country.

The author of the present paper tends to think that to put educational level of civil servants at a higher level is possible only within practical implementation of new teaching methods i.e. introduction of a student-centred, active and constructive learning as a collaborative process in the form of Problem-Based

Learning, Simulations and Blended Learning activities into the study curricular. Therefore, in this part of the research we propose to examine current situation on quality assessment of legal education within the most important reform in Ukraine – civilian security sector reform and the way these innovative technologies operate nowadays.

Primarily, training system – is the foundation of personnel policy in the field of civil protection. Therefore, educational system undoubtedly plays the main role in the training of personnel in the security sector, as in other areas of our society, while higher education is a part of the state system of higher education. At the same time higher education functions as a basis of the overall system, which also includes subsystems: scientific and technical activities, vocational education and trainings.

Significant systemic transformation, improvement of the legal and regulatory framework, reform of government and civil defence forces, educational institutions and research institutions has taken place since Ukraine became an independent state in 1991. Important system changes also occur in the state education system, especially in higher education since the official accession of Ukraine to the “Bologna process”.

#### ***a) Public Prosecutor’s Office***

In the transitional period (before the Law of Ukraine “On Public Prosecutor’s Office”<sup>13</sup> (PPO) fully enters into force), the system of recruitment and appointment envisaged by the new Law “On Public Prosecutor’s Office”, including the candidates’ obligation to go through a mandatory one-year educational course at the National Academy of Prosecutors of Ukraine prior to appointment to a position, should not be applicable. Instead, the following procedure should apply: a competition should be announced for a new vacant position at the Prosecutor’s Office. The competition will consist of four steps (Professional Testing, General Skills Testing, Psychometric Testing and Interviewing).

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<sup>13</sup> On Public Prosecutor’s Office: Law of Ukraine adopted on October 14, 2014 // Vidomosti of the Verkhovna Rada, – 2015. – No. 2-3. – p. 12.

A successful candidate will have to go through a six weeks to two months long training course in the Academy and be appointed to a position with a condition of an internship for up to one year. At the same time, each Prosecutor will have to go through a 60 to 90 hours of continuous training on novelties in legislation and practice, as well as skills that were determined as a result of a needs assessment.

Trainings should be followed by an exam. Repeated failure to pass an exam will have a negative consequence for the performance evaluation of the Prosecutor.

In order to ensure that the optimization is based on fair and objective criteria, it is planned to hold two exams for Public Prosecutors:

(1) Professional Qualification Test: according to the plan, 5,000 multiple-choice questions will be developed and made public. Questions will be available for employees one month prior to the date of the test. The software will randomly select 100 questions for the exam day. Results will be provided instantly. 4,000 questions were prepared for the National Anti-Corruption Bureau of Ukraine (NABU) by the Applied Humanitarian Research Institute and the Kharkiv University of Law and financed by OECD. Those questions will be modified and more questions will be added for Prosecutors (since NABU's tests are more focused on Investigators). Therefore, the process will be less costly and the development of tests will require less efforts.

(2) General Skills Test: the goal of the test is to measure general knowledge and skills of candidates. The tests will be procured from local vendors. Those Prosecutors who receive the best (the highest) scores will remain in the office. They will be appointed to the Local Prosecutor's Offices. This approach is fairer than the currently applied one, which envisages that those employees, who served longer, have more chances for retaining their positions.

Furthermore, the new approach will ensure that the best-qualified professionals remain at the Prosecutor's Office.

As for the Heads (Chief Prosecutors) of Local Prosecutor's Offices (in total, there will be 208 Chief Prosecutors), for the first time in the history of the

Ukrainian PPO, they will be recruited through an open and competitive procedure. Any person who has a law diploma and at least one year of experience in the legal sector will be able to apply for the job. For the Chief Prosecutors, there will be a four-step process: (1) Professional tests; (2) General skills test; (3) Psychometric test MMPI2; (4) Interview.

This procedure will attract motivated professionals with high moral and integrity standards, who can play an active role in the modernization and transformation of the system.

The abovementioned training should be completed before December 15<sup>th</sup>, 2015 for local public prosecutor's office and till April 15<sup>th</sup>, 2015 for self-governments bodies – dates when both authorities should start its operational activity.

Meanwhile, the first professional skills tests were supposed to start on August 15<sup>th</sup>, 2015 but were postponed till September 5<sup>th</sup>, 2015.

Additionally, under the new Law of Ukraine “On Public Prosecutor's Office” (Art. 80) National Academy of Prosecutors of Ukraine (the Academy) is a state establishment with the special status, which provides the special training of candidate public prosecutors, and continues training of public prosecutors. However, the Academy no longer have a status of a scientific or research institution, besides it will not have Master Programme for prosecutors.

Moreover, prosecutors may be seconded to the National Academy of Prosecutors of Ukraine for ensuring the special training of candidate public prosecutors, and continues training of public prosecutors. The National Academy of Prosecutors of Ukraine is not covered by the legislation on the higher education.

#### ***b) National Anti-Corruption Bureau of Ukraine***

The National Anti-Corruption Bureau will start its operational activity from 1st October, 2015, however the first detectives are going to be elected in August, in order to start their initial training, on which Ukraine cooperates with British colleagues. Active participation of the UK counterparty has significantly improved

training program. Additionally, experts from other EU countries will also facilitate with training of detectives.

Professional Qualification Test will be similar to the one to be held in the Public Prosecutor's Office.

***c) Police***

Police reform in Ukraine envisages selection, training and implementation into the system of police officers trained and educated by means of new quality standards, supported by the development of innovative education through targeted programs and introduction of the new technologies. The new scheme of police trainings starts its functioning in the district centres in 2015.

Meanwhile, the implementation of police reform in terms of special education / training has four stages:

1) application process will be launched soon in Vinnytsa, Donetsk, Ivano-Frankovsk, Rivne, Ternopil and Chernyiv regions;

2) competition is in process in Volyn, Dnipropetrovsk and Khmelnytsk regions (application process for another 400 places of the second wave of patrol policemen was ongoing till 7 August (about two thousands application were submitted). After the selection procedure the second wave will complete training approximately by 25<sup>th</sup> September, 2015);

3) education / training of police officers is undergoing in Zakarpatya, Lviv, Mykolaiv, Odesa, Kharkiv regions (from 1<sup>st</sup> July, 2015 the first 400 patrol police officers, in every abovementioned region, are undergoing training, graduation will take place on 27<sup>th</sup> August, 2015);

4) finally, in Kyiv the training stage has already been completed and new patrol police officers started to operate in July 2015.

***d) Judiciary***

Training of qualified personnel for the judicial system of Ukraine is of national importance and is the key to improving the quality of justice and accordingly - improving the international image of Ukraine.

Implementation of this task in the form of judicial reform in Ukraine demanded establishment of a separate agency, the National School of Judges of Ukraine, established on 21st December, 2010 at the Academy of Judges of Ukraine.

According to the Law of Ukraine “On the Judicial System and Status of Judges” National School of Judges of Ukraine is a public institution with a special status, which provides training of qualified personnel for the judicial system and carries out research activities.

National School of Judges of Ukraine provides:

- special training to candidates who are going to qualify as judges;
  - training of judges, who are already appointed for a 5-year term;
  - training to judges who hold office for unlimited term;
  - training to judges holding administrative positions in the courts;
  - periodic training of judges in order to improve skill levels;
  - training of court staff;
  - research on improving justice;
  - studies of international experience in the organization and functioning of courts;
- guidance for the operation of courts of general jurisdiction, the High Qualification Commission of Judges of Ukraine and the High Council of Justice.

National School of Judges of Ukraine has approved the Strategic Development Plan for 2014-2018, which is based on long term interim goals that the National School of Judges of Ukraine has determined considering development strategy of the judiciary in Ukraine. All international cooperation activities are aimed to:

- transform the National School Judges of Ukraine in order to establish judicial education that meets international standards, national needs in staffing courts;
- to create a powerful educational and scientific centre for training of highly qualified judges;

- to develop and implement innovative methods of training.

In order to attract the best world experience and to address urgent needs for professional training within judicial system of Ukraine, National School of Judges of Ukraine establishes relations with international organizations, projects and programs of technical assistance, embassies of countries accredited in Ukraine, and foreign judicial education institutions. It is highly important to mention International Donor's support in the reform of Legal Higher Education. One of the first international projects that provided assistance in the examined area is the FAIR Justice Project (FAIR).

Among the goals of FAIR is to improve the quality of legal education in Ukraine in order to enhance the quality of candidates for judicial positions. This includes, but is not limited to, FAIR's assistance in establishing legal education standards which, among other things, includes legal profession qualifications framework development, as well as development of both internal and external quality assurance mechanisms.

FAIR regularly provides trainings aimed to ensure greater sustainability of FAIR's efforts to improve the quality of legal education in Ukraine by enabling Ukrainian legal education specialists to conduct independent on-site legal education quality assessments with a minimal or no support from international experts in the nearest future.

FAIR decided to join this topic from a different prospective in addressing the challenges in legal education quality assurance. Staying focused on its policy related issues. FAIR invited the cooperation of the authorized governmental agencies such as Ministry of Justice and Ministry of Education to consider the implementation of relevant pilot projects.

The first matter to be resolved was about the need to develop a proper methodology to implement independent quality of education assessment. The aim was to have a set of clear qualitative criteria in accordance with the Standards and Guidelines for Quality Assurance in the European Higher Education Area to be applicable in the Ukrainian context.

This modern perception-based methodology for external on-site legal education quality assessment was developed in line with international and European standards adapted to the Ukrainian context and designed to assess legal education quality.

Specific attention is paid to assessment / teaching methodologies and construction of exam papers in order to ensure quality of educational background of potential candidates to occupy position of judges and state officials in general (i.e. how the questions should be formulated, e.g. avoid asking yes/no questions; use caution when asking “Why” questions; focus on “What” and “How” questions etc).

The assessment toolkit is based on:

- “Concept of Development of Higher Legal Education in Ukraine” proposed by the American Bar Association Rule of Law Initiative (ABA ROLI);
- “The Status of Legal Education and Science in Ukraine” – a report developed under the auspices of the OSCE;
- “European Standards and Guidelines for Internal Quality Assurance” within Higher Education Institutions” – a paper developed thanks to the European Commission;
- “Standards for Approval of Law Schools and Legal Education Reform Legal Education Reform Index Factors” – an ABA-developed document;
- “Concept Paper on Education Reform” – a paper designed owing to the International Renaissance Foundation support;
- Law of Ukraine “On Higher Education”;
- Regulation on Accreditation Commission in Ukraine;
- Regulation on State Education Inspection in Ukraine;
- State Requirements to Accreditation of Higher Educational Establishments.

### **3. Student Assessment**

The Ministry of Education and Science of Ukraine in cooperation with a University determines a list of exams and differentiated tests according to a 4-point scale or to a 2-point scale.

Graduates are conferred qualifications of respective educational-proficiency levels and they are granted diplomas of the state format. The Diploma is a state-recognized document which serves as both an educational certificate and a professional license. It acknowledges the achievement of the proper higher educational level and a certain educational qualification in some specialty. The Law of Ukraine “On Higher Education”<sup>14</sup> sets up the following types of documents that confirm higher education qualifications (Art.9):

- Dyplom Molodshoho Spetsialista (Diploma / qualification of Junior Specialist)
- Dyplom Bakalavra (Diploma / qualification of Bachelor)
- Dyplom Spetsialista (Diploma / qualification of Specialist)
- Dyplom Mahistra (Diploma / qualification of Master)

As mentioned above, the new 2014 Law “On Higher Education” modifies educational levels, excluding the qualification of Specialist starting from 2016 and reserving the possibility for students to acquire qualification of Junior Bachelor, Bachelor and Master.

**Under the 2002 Law Master’s Diploma (Honours Diploma), Specialist’s Diploma (Honours Diploma) and Bachelor’s Diploma (Honours Diploma)** show a top level of performance of a student, which means that the student has got 75 – 100 percent of Excellent grades and no more than 25 percent of Good grades, with no Satisfactory or Unsatisfactory scores.

**Master’s Diploma, Specialist’s Diploma and Bachelor’s Diploma** show a minimum passing grade which means that the student has received from 1 – 74 percent of Satisfactory scores.

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<sup>14</sup> Law of Ukraine “On Higher Education” [Electronic source]. – Available at: <http://zakon4.rada.gov.ua/laws/show/2984-14>

The postgraduate level consists of a two-degree system. The first level of a scientific degree is the **Candidate of Sciences (Kandydat Nauk)**. It usually expects no less than three years of postgraduate study (aspirantura) after the obtaining of Master degree. The second level of a scientific degree is the **Doctor of Sciences (Doctor Nauk)**, the highest scientific degree in Ukraine.

This qualification requires some period of studies (doctorantura) following the award of Kandydat Nauk degree with a minimum interval of five years. A public defense of thesis is held in a form of public presentation and scientific debates with a secret vote.

The 2014 Law improves postgraduate system by substitution of the **Candidate of Sciences (Kandydat Nauk)** scientific degree for **PhD (Doctor of Philosophy)** and leaving the highest level of a scientific degree – the **Doctor of Sciences (Doctor Nauk)** as it was before the educational reform.

Furthermore, the new Law increases the period of study for the qualification of a Master from one and a half to two years, while in postgraduate schools the apprenticeship for PhD level will expand from three to four years. Habilitation period of study will remain the same – three years accordingly.

### **The European Community Course Credit Transfer System (ECTS)**

In 2004, after the Ukraine's accession to the Bologna Process, the assessment reform occurred at all levels of the educational system. Hence, the student assessment system started the transition to a new knowledge assessment system – the **ECTS**. It was launched by the Decrees of the Ministry of Education and Science of Ukraine “On a Pedagogical Experiment of the Credit Transfer System Organisation in Educational Process” No. 48, adopted on January 23, 2004<sup>15</sup>; “On Peculiarities of the Credit Transfer System Introduction into Educational Process” No. 812, adopted on October 20, 2004;<sup>16</sup> “On Introduction of the Credit Transfer System into Educational Process” No. 771, adopted on

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<sup>15</sup> Decree of the Ministry of Education and Science “On a Pedagogical Experiment of the Credit Transfer System Organisation in Educational Process”, adopted on January 23, 2004 No. 48 <http://zakon2.rada.gov.ua/rada/show/v0048290-04>

<sup>16</sup> Decree of the Ministry of Education and Science “On Peculiarities of the Credit Transfer System Introduction into Educational Process”, adopted on October 20, 2004 No. 812 <http://zakon2.rada.gov.ua/rada/show/v0812290-04>

December 30, 2005;<sup>17</sup> “On Introduction of the European Credit Transfer System in Higher Educational Institutions of Ukraine” No. 943, adopted on October 16, 2009.<sup>18</sup>

Interim grades are recorded in the register kept by the group monitor and dean’s office. In fact there is no precise quota on a number of students getting the highest, medium, low or failing grade. It merely depends on students’ quality of knowledge, their achievements and proficiency demonstrated on the exam.

Nevertheless, it is highly important to emphasize that nowadays the ECTS accumulation scale can be used simultaneously with the 4-point scale or applied by the Universities on a selective basis<sup>19</sup>.

The ECTS was designed to increase efficiency and to improve the European interuniversity cooperation i.e. the quality of education and mobility of students with the possibility of employment. It facilitates the recognition of educational achievements by European students through the use of commonly understandable measurements – credits and grades. Meanwhile, the acquired knowledge received by a student in a higher educational institution is valid and adequately estimated in all countries of the Bologna Process.

In Ukraine the type of exam is usually determined by the lecturer of the discipline. Among the assessment techniques now being considered are oral exams and in-class written exams. The structure of the last one may include multiple-choice tests, problem-solving or theoretical questions.

The procedure of written exams differs a lot from the Western model. Besides the examiner and his/her assistant, there are no proctors (invigilators) in the room. Consequently, their absence may lead to cheating because students are not controlled at the exam. The duration of a written exam is determined by the lecturer and can vary from one to two hours accordingly.

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<sup>17</sup> Decree of the Ministry of Education and Science “On Introduction of the Credit Transfer System into Educational Process”, adopted on December 30, 2005 No. 771 <http://zakon2.rada.gov.ua/rada/show/v0774290-05>

<sup>18</sup> Decree of the Ministry of Education and Science “On Introduction of the European Credit Transfer System in Higher Educational Institutions of Ukraine”, adopted on October 16, 2009 No. 943 <http://zakon2.rada.gov.ua/rada/show/v0943290-09>

<sup>19</sup> As an Example see The Regulations of Taras Shevchenko National University of Kyiv [Electronic source]. – Available at: [nmc.univ.kiev.ua/docs/POLOJENNIA-2010-1.doc](http://nmc.univ.kiev.ua/docs/POLOJENNIA-2010-1.doc)

Unfortunately open- or closed book exams, take-home exams, seminar papers and presentations are thus far inapplicable for Ukrainian student assessment system.

Another distinctive feature of the legal education is the existence of incentives for students to receive the highest score *automatically* without the exam. This reward may be granted by the lecturer to one or two students for distinguished progress in studies which may include, for example, prize-winning places at scientific-research conferences, competitions, contests, publication of scientific articles on the subject in the special legal scientific journals etc.

The end-of-year exams do not exist in the Ukrainian higher education system. However, there are end-of degree program final exams (for Bachelor and for Master degree). They are oral and may consist of several disciplines. The end-of degree program final exams are required in addition but not instead of the course exams and are held once a year in June.

The exams are graded by the lecturer who might have a teaching assistant, but not by the faculty members or administrators. Moreover, the principle of anonymity is not always adhered; however it depends upon the university's policy.

The appeal procedure is provided for students wishing to challenge a grade. It is conducted by the assessment committee consisting of three to five lecturers from the same department in two weeks after the primary grades announcement. The structure of the exam is similar to the principal one.

In the European Union countries dissertations both for Bachelor and Master Degrees are compulsory, while in Ukraine they are required only for Specialist and Master qualifications. Cheating during exams and plagiarism in papers are considered to be the major problems in student assessment. Different preventive measures are taken by the university staff in order to exposure plagiarism as there are no anti-plagiarism systems for open-use. Some programs seem to have been created by the Ministry of Education and Science of Ukraine for this purpose but only for thesis expertise, although they contain a limited number of Ukrainian and Russian sources with no access to foreign ones. It is worth to mention that essential

strengthening of anti-plagiarism rules and responsibility for their breach is planned within the framework of the new 2014 Law of Ukraine “On Higher Education” (Article 6 paragraph 6). Additionally, mandatory publication of dissertations will be introduced.

Unfortunately, cases of corruption with the grading by the examiners might happen, however, it is likely to be the subject of a separate discussion.

One of the clearest implications for further research that emerges from the presented overview is that student assessment system in Ukraine is far from being perfect. The evidence suggests that there is a lack of transparency and impersonality in the knowledge assessment system; as a result the necessity of having breakthrough reforms in this sphere seems to be urgent.

#### **4. Institutional Assessment**

The higher educational establishment seeking national recognition must meet licensing and accreditation procedures exercised by the Department of Licensing, Accreditation and Nostrification of the Ministry of Education and Science of Ukraine, with the help of the State Accreditation Commission, the State Inspectorate of Higher Educational Institutions, and the Higher (Supreme) Attestation Board.

The legislative framework of the institutions’ assessment must be in compliance with legal regulations, in particular the Decree of the Cabinet of Ministers of Ukraine “On Approval of the Accreditation of Higher Education Institutions and Specialities in Higher Education Institutions and Higher Vocational Schools” No. 978, adopted on August 9, 2001<sup>20</sup> and the Law of Ukraine “On Higher Education”. As it was mentioned above, these procedures will undergo considerable changes under the new 2014 Law.

Licensed HEIs are listed in the Ministry’s Public Register of Higher Education Institutions. The results of the accreditation of HEIs are confirmed by

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<sup>20</sup> The Decree of the Cabinet of Ministers of Ukraine “On Approval of the Accreditation of Higher Education Institutions and Specialities in Higher Education and Higher Vocational Schools” No. 978, adopted on August 9, 2001. <http://zakon.rada.gov.ua/laws/show/978-2001-%D0%BF>

the certificates, issued according to the procedure established by the Cabinet of Ministers of Ukraine.

The license contains the information about the name of degree programs, educational level, duration of the license, legal address of HEI, its structural units (branches) and their legal addresses. Licensing of educational activities of HEIs is performed by means of the licensing expertise. The central executive body responsible for the implementation of the state educational policy, based on the request of HEIs for the licensing evaluation, decides within two months if to grant a license or to refuse its' issuing. Under Article 24 of the 2014 Law it should be done within ten days.

Higher education institution which has successfully passed the licensing inspection is granted a license for an educational activity usually for a period of no more than three years.

The *accreditation* of a HEI is public recognition of its status (level of accreditation) by the state on the basis of solid evidence that its activities conform to nationally established norms. It consists of an external assessment of the content and quality of education and training and their compliance with the state educational standards. The stages comprising the procedure of institutional accreditation (self-evaluation, site visit, writing a report, publishing the report, follow-up procedures) are aimed at the objective evaluation and making a decision about the compliance of a HEI with the determined standards.

The State Accreditation Commission is a state-public body headed by the Minister of Education and Science of Ukraine. The decisions of the State Accreditation Commission are made once per month on a session of the State Accreditation Commission, composition of which is confirmed by the Cabinet of Ministers of Ukraine. It is valid for a period of 2-3 years. The chancellors of the leading universities, representatives of other ministries, non-government entities who are volunteers, are included into the Commission.

## **5. Suggestions for Improvement**

While Ukraine has taken obligations to bring its educational system in correspondence with the Bologna standards by 2010, in vast majority of Ukrainian universities QA is either absent at all or is limited to a bureaucratic control of quality. Aim of this country report was to analyze quality management in higher education in Ukraine, in general, and in legal education, in particular, and to draw some conclusions concerning the need for introduction of quality management in legal education.

For further enhancement of the integration of Ukraine into the global system of education, it is critical, from the experts point of view, to ensure: further democratization of the educational process and the involvement of students into the management of higher education institutions; public oversight of the system of education, its quality through the national, regional and local professional and education councils; support to the development of innovative education through targeted programs; priority funding and introduction of the new technologies; state support for talented young researchers; an open, competitive allocation of grants for scientific research.

As educational reforms are insufficient without their appropriate legislative support, it is important that the new 2014 Law “On Higher Education” was adopted in Ukraine. A short analysis of the most advanced Bill “On Higher Education” No. 1187-1, elaborated by the oppositional parties in the Verkhovna Rada of Ukraine and submitted to the Verkhovna Rada on January 11, 2013, proves that adoption of its main provisions would be beneficial for the reform of higher education. The principal difference in the content of Bill 1187-1 in comparison with Bills 1187, 1187-2 lied already in its editorial board as it has been worked out mainly by the experts who obtained their higher education and scientific degrees abroad. They have personally experienced the differences between the Soviet educational system and the Western one. That is why if to compare all three Bills, Bill 1187-1 seems to be the best one to meet the requirements of the Bologna Process. Although, all in all, this Bill was declined (because of political reasons but not the content), its main provisions were

incorporated into the new 2014 Law. Among them the provisions of Article 13 paragraph 3 sub-paragraph 1-2 of the Bill about the right of a person “to acquire further educational degree in the same or related field of science” that truly reflects the content of the Bologna Process; the provisions of Article 22 paragraph 6 sub-paragraph 7 about “educational activities within the program of foreign educational institutions”, norms on creation of the National Agency for Quality Assurance in Higher Education (Article 39) etc.

Successful reforms in Ukrainian higher education are no doubt possible only following the clear governmental policy; however representatives of both executive and legislative powers until recently did not cooperate in a common approach towards integrated higher education.

In recent decade the Ukrainian legal education system experienced transformation of its procedure for student selection and admission from the soviet-style university-based admission exams to a model founded on external independent testing. In general, results of the transformation are positive. Since 2011, the revision of EIT-based model is going on. Though the university-based admission exams have not been restored, innovations that essentially diminish role of the EIT and potentially promote the corruption were introduced. To restore a crucial role of sheer results of an external independent testing is the principal measure necessary to improve the admission procedure. For this purpose, two components for calculation of the applicant competition score distorting EIT results – additional points for awardees of educational competitions and an average score of a secondary school transcript, – should be abolished. A number of applicant categories eligible for admission based on exemptions should be minimized. The applicants mentioned above should be granted a right of preferred admission (preferences in the case of the same EIT results) instead. At the same time, serious efforts should be applied to improve a system of EIT; primarily quality of tests and testing administration, taking into consideration already accrued domestic, as well as foreign, experience.

The system of higher education in Ukraine has a complex multilevel structure. Such a structure is supposed to guarantee the freedom of choice and to enable the individuals to receive education according to their mental and professional abilities. These features further enhance the citizens' right to receive education in different forms of learning.

The main directions of the state policy in the field of higher education are established by the Constitution of Ukraine, the National Strategy of Educational Development in Ukraine until 2021, Laws of Ukraine "On Education" and "On Higher Education" of 2002 which was substituted by the new Law "On Higher Education" adopted on the 1st July, 2014, Law "On technical education," numerous acts issued by the President and the Cabinet of Ministers of Ukraine.

According to the National Strategy the main purpose of state policy in the development of higher education is to create conditions for personal development for every citizen of Ukraine, for preservation and development of the national culture and values of the society.

The process of modernization of the education system in Ukraine showed that the quality of higher education was determined primarily by the quality standards of education and training, infrastructure, internal and external environment, the level of university management. For this, state Standards of Education (rules that define the requirements for each qualification level: scope and methodology of the training and tests) were developed for each education (qualification) level and field of training (specialties) and approved by the Cabinet of Ministers of Ukraine. They are subject to revision and re-approval at least once a decade. The main purpose of the state educational standards is to ensure the achievement and maintenance of the certain level of higher education by means of the implementation of standardized curriculum and self-assessment or public performance evaluation.

To conclude it is worthwhile stressing again that in majority of Ukrainian universities quality management is either absent or is limited to a bureaucratic control of quality. Introducing of QA is extremely important in Ukraine taking into

consideration that it is our commitment under the Bologna declaration; it is necessary for the reform of education; more and more students from Ukraine study abroad and more foreign students come to Ukraine. Finally, without quality management it is impossible to combat corruption in higher education. The new 2014 Law of Ukraine “On Higher Education” is expected to see to all these problems.